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# federal register

Thursday
February 19, 1998

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# Rules and Regulations

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 329

**RIN 3064–AC13**

### Interest on Deposits

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) is amending its regulation entitled ''Interest on Deposits.'' Section 18(g) of the Federal Deposit Insurance Act (FDI Act) requires that the FDIC by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. The interest on deposits regulation implements this prohibition. The amendment provides as an exception to the prohibition, the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C. 371a and 461, or by regulation of the Board of Governors of the Federal Reserve System (FRB). This amendment is in accordance with the FDIC's review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

**EFFECTIVE DATE:** April 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Marc Goldstrom, Counsel, Regulation and Legislation Section, Legal Division, (202–898–8807); or Louise Kotoshirodo, Review Examiner, Division of Compliance and Consumer Affairs, (202–942–3599).

**SUPPLEMENTARY INFORMATION:**

### Background

Section 18(g) of the FDI Act provides that the Board of Directors of the FDIC shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. (12 U.S.C. 1828(g)). Accordingly, the FDIC promulgated regulations prohibiting the payment of interest or dividends on demand deposits at 12 CFR part 329. Section 11 of the Banking Act of 1933 (12 U.S.C. 371a) prohibits member banks from paying interest on demand deposits and is implemented by Regulation Q, (12 CFR part 217) of the FRB.

Section 18(g) of the FDI Act also provides that the FDIC shall make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the FRB (12 U.S.C. 1828(g)). Generally, member banks, state nonmember banks and insured branches of foreign banks are subject to the same prohibition and exceptions to such prohibition, albeit under different statutes and regulations.

From time to time the FRB issues or authorizes a new exception to the prohibition applicable to member banks, and the FDIC later issues or authorizes a similar exception affecting state nonmember banks and insured branches of foreign banks. In situations when the FRB issued or authorized an exception to the prohibition, but the FDIC had yet to act, state nonmember banks and insured branches of foreign banks faced a possible competitive disadvantage with respect to member banks.

In order to eliminate the potential for any such competitive disadvantage in the future and in light of the FDIC's statutory mandate to make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks, the FDIC published a notice of proposed rulemaking in the **Federal Register** on October 16, 1997 (62 FR 53769). The proposed amendment would allow for the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C. 371a and 461, or by regulation of the FRB. The effect of the amendment is that state nonmember banks and insured branches of foreign banks would become subject to the same exceptions to the prohibition that member banks are subject to, regardless of whether the FDIC had issued or authorized the specific exception.

The FDIC received a total of 19 comments on the proposal. Comments were received from eleven banks, one bank holding company, one individual, and six trade associations. Twelve commenters expressed support for the proposal and two expressed disagreements. However, one of those disagreeing with the proposal appeared to have misunderstood its effects. That commenter seemed to believe that the proposed rule would eliminate the prohibition entirely.

The other commenter expressing disapproval claimed that it would be detrimental to smaller independent banks and their customers, without explaining why he believed this to be the case. For the reasons stated in the notice of proposed rulemaking, the FDIC has decided to issue a final rule that is the same as the proposed rule.

Of the comments received, seven believed that the prohibition should be removed altogether. The FDIC may not at this time consider such action because section 18(g) of the FDI Act requires the FDIC to impose the prohibition by regulation. Thus, until such time as Congress repeals or amends section 18(g) of the FDI Act, the prohibition against paying interest on demand deposits must be maintained.

One regional trade association asked the FDIC to support the American Bankers Association (ABA) initiatives to develop new money market deposit accounts for commercial entities. The ABA recently asked the FRB to amend its regulations to create a money market deposit account (MMDA) that would allow up to twenty-four transactions a month for commercial entities not eligible for NOW accounts. The FRB declined, claiming that an MMDA that provided for twenty-four transactions instead of the current limit of six transactions would effectively circumvent the statutory prohibition against the payment of interest on demand deposits.

The regional trade association has now asked the FDIC to authorize an MMDA that allows twenty-four transactions per month and to encourage the FRB to do the same. The regional trade association argues that such an MMDA is necessary because banks are at a competitive disadvantage with brokerage firms and credit unions,

which are able to offer their business customers interest-bearing accounts with unlimited checking.

The FDIC is aware that the prohibition on the payment of interest on demand deposits puts banks at a competitive disadvantage and may encourage an otherwise unnecessary use of resources to avoid the prohibition. Nonetheless, the FDIC agrees with the FRB that authorizing such an MMDA would effectively circumvent the statutory prohibition. The FDIC also believes that the most appropriate way to address this issue is through a statutory change. Accordingly, organizations interested in pursuing this matter may wish to urge Congress to remove the prohibition.

**Final Rule**

The FDIC is adopting its proposed rule without change.

**Regulatory Flexibility Act**

The Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The effect of this rule is that state nonmember banks and insured branches of foreign banks will become subject to the same exceptions to the prohibition that member banks are subject to, regardless of whether the FDIC has issued or authorized the specific exception.

**Paperwork Reduction Act**

The final rule will not constitute a ''collection of information'' within the meaning of section 3502(3) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Consequently, no material has been submitted to the Office of Management and Budget for review.

**Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) provides generally for agencies to report rules to Congress and for Congress to review rules. The reporting requirement is triggered when agencies issue a final rule as defined by the Administrative Procedure Act (APA) at 5 U.S.C. 551. Because the FDIC is issuing a final rule as defined by the APA, the FDIC will file the reports required by SBREFA.

The Office of Management and Budget (OMB) has determined that this final revision to part 329 does not constitute a ''major rule'' as defined by SBREFA.

**List of Subjects in 12 CFR Part 329**

Banks, banking, interest rates.

For the reasons set forth in the preamble, the Board of Directors of the FDIC hereby amends part 329 of title 12 of the Code of Federal Register as follows:

## PART 329—INTEREST ON DEPOSITS

1. The authority citation for part 329 continues to read as follows:

**Authority:** 12 U.S.C. 1819, 1828(g) and 1832(a).

2. Section 329.3 is added to read as follows:

**§ 329.3 Exception to prohibition on payment of interest.**

Section 329.2 shall not apply to the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C. 371a and 461, or by regulation of the Board of Governors of the Federal Reserve System.

By order of the Board of Directors.

Dated at Washington, D.C., this 10th day of February, 1998.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 98–4142 Filed 2–18–98: 8:45 am]

BILLING CODE 6714–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–ACE–1]**

## Amendment to Class E Airspace; Topeka, Forbes Field, KS

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends the Class E airspace area at Topeka, Forbes Field, KS. A review of the Class E airspace for Forbes Field indicates it does not meet the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The area has been enlarged to conform to the criteria of FAA Oder 7400.2D. The intended effect on this rule is to comply with the criteria of FAA Order 7400.2D and to provide controlled Class E airspace for aircraft operating under Instrument Flight Rules.

**DATES:** *Effective date:* 0901 UTC, June 18, 1998.

*Comment date:* Comments for inclusion in the Rules Docket must be received on or before March 23, 1998.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–1, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic, Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR part 71 revises the Class E airspace at Topeka, Forbes Field, KS. A review of the Class E airspace for Topeka, Forbes Field indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL, is based on a standard climb gradient of 200 feet per mile, plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment to Class E airspace at Topeka, Forbes Field, KS, will meet the criteria of FAA Order 7400.2D, provide additional controlled airspace at and above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**The Direct Final Rule Procedure**

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is

issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

**Comments Invited**

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–ACE–1''. The postcard will be date stamped and returned to the commenter.

**Agency Findings**

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ACE KS E5 Topeka, Forbes Field, KS [Revised]**

**Topeka, Forbes Field, KS**
(Lat. 38°57′01″N., long. 95°39′51″W.)
**Topeka VORTAC**
(Lat. 39°08′14″N., long. 95°32′57″W.)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of Forbes Field Airport and within 3.1 miles each side of the Forbes Field ILS localizer course extending from the 7.2-mile radius to 13 miles southeast of the airport and within 3.5 miles each side of the Forbes Field ILS localizer course extending from the 7.2-mile radius to 13 miles northwest of the airport and within 3 miles each side of the 206° radial of the Topeka VORTAC extending from the 7.2-mile radius to 7.4 miles southwest of the airport.

* * * * *

Issued in Kansas City, MO, on January 9, 1998.

**Christopher R. Blum,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 98–3968 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 97–ACE–38]**

## Amendment to Class E Airspace; Chadron, NE

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends the Class E airspace area at Chadron Municipal Airport, Chadron, NE. The FAA has developed Global Positioning System (GPS) Runway (RWY) 20, GPS RWY 2, Nondirectional Radio Beacon (NDB) RWY 20, NDB RWY 2, VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) RWY 20, and VOR/DME RWY 2, Standard Instrument Approach Procedures (SIAPs) to serve the Chadron Municipal Airport. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs. The enlarged area will contain the GPS RWY 20, GPS RWY 2, NDB RWY 20, NDB RWY 2, VOR/DME RWY 20, and VOR/DME RWY 2 SIAPs in controlled airspace. The intended effect of this rule is to provide Class E airspace for aircraft executing these SIAPs and segregation

of aircraft using instrument approach procedures in instrument conditions.

**DATES:** *Effective date:* 0901 UTC, June 18, 1998.

*Comment date:* Comments must be received on or before March 23, 1998.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–38, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** The FAA has developed GPS RWY 20, GPS RWY 2, NDB RWY 20, NDB RWY 2, VOR/DME RWY 20, and VOR/DME RWY 2 SIAPs at Chadron, NE. The amendment to the Class E airspace at Chadron, NE, is necessary to provide additional controlled airspace extending upward from 700 feet AGL in order to contain the SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous action of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

### Comment Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by the submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–38.'' The postcard will be date stamped and returned to the commenter.

### Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designation and Reporting Point, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ACE NE E5 Chadron, NE [Revised]**

**Chadron Municipal Airport, NE**
(Lat. 42°50′15″ N., long. 103°05′43″ W.)
**Chadron VOR/DME**
(Lat. 42°33′32″ N., long. 103°18′44″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Chadron Municipal Airport and within 5 miles each side the 028° radial of the Chadron VOR/DME extending from the 7.4-mile radius to 12 miles northeast of the Chadron Municipal Airport.

* * * * *

Issued in Kansas City, MO, on December 30, 1997.

**Christopher R. Blum,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 98–3967 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 97–ACE–39]**

## Amendment to Class E Airspace; Valentine, NE

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends the Class E airspace area at Miller Field, Valentine, NE. The FAA has developed a Global Positioning System (GPS) Runway 32 Standard Instrument Approach Procedure (SIAP) to serve Miller Field, Valentine, NE. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate this SIAP. The enlarged area will contain the new GPS RWY 32 SIAP in controlled airspace. The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 32 SIAP and segregation of aircraft using instrument approach procedures in instrument conditions.

**DATES:** *Effective date:* 0901 UTC, June 18, 1998.

*Comment date:* Comments for inclusion in the Rules Docket must be received on or before March 23, 1998.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–39, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:**

Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** The FAA has developed a GPS RWY 32 SIAP to serve Miller Field, Valentine, NE. The amendment to the Class E airspace at Valentine, NE, is necessary to provide additional controlled airspace extending upward from 700 feet AGL in order to contain the new SIAP within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

### Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–39.'' The postcard will be date stamped and returned to the commenter.

### Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory

Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ACE NE E5 Valentine, Miller Field, NE [Revised]**

**Miller Field, NE**

(Lat. 42°51′28″ N., long. 100°32′50″ W.)

**Valentine NDB**

(Lat. 42°51′42″ N., long. 100°32′59″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Miller Field and within 2.6 miles each side of the 149° bearing from the Valentine NDB extending from the 6.5-mile radius to 7.9 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on December 30, 1997.

**Christopher R. Blum,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 98–3966 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 97–ACE–12]**

## Amendment to Class E Airspace; Topeka, Philip Billard Municipal Airport, KS; Correction

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date and correction.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises Class E airspace at Topeka, Philip Billard Municipal Airport, KS, and corrects an error in the airspace designation as published in the direct final rule.

**DATES:** The direct final rule published at 62 FR 53743 is effective on 0901 UTC February 26, 1998.

The correction is effective on 0901 UTC February 26, 1998.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** On October 16, 1997, the FAA published in the **Federal Register** a direct final rule and request for comments which modified the Class E airspace at Topeka, Philip Billard Municipal Airport, KS (FR Document 97–27382, 62 FR 53743, Airspace Docket No. 97–ACE–12). An error was subsequently discovered in the Class E airspace designation. This action corrects that error and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received with the comment period, the regulation would become effective on February 26, 1998. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

**Correction**

In rule FR Doc. 97–27382 published in the **Federal Register** on October 16, 1997, 62 FR 53743, make the following correction to the Topeka, Philip Billard Municipal Airport, KS, Class airspace designation incorporated by reference in 14 CFR 71.1:

**§ 71.1 [Corrected]**

On page 53744, in the second column, in the airspace designation, line 12, correct ''025°'' to read ''030°''.

Issued in Kansas City, MO, on January 28, 1998.

**Christopher R. Blum,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 98–3974 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 97–ACE–16]**

## Amendment to Class E Airspace, Keokuk, IA; Correction

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date and correction.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises Class E airspace at Keokuk, IA, and corrects an error in the airspace designation as published in the direct final rule.

**DATES:** The direct final rule published at 62 FR 58644 is effective on 0901 UTC April 23, 1998.

The correction is effective on 0901 UTC April 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64016; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** On October 30, 1997, the FAA published in the **Federal Register** a direct final rule and request for comments which modified the Class E airspace at Keokuk, IA (FR Document 97–28750, 62 FR 58644, Airspace Docket No. 97–ACE–16). An error was subsequently discovered in the Class E airspace designation. This action corrects that error and confirms the effective date of the direct final rule.

The FAA used the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a

written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 23, 1998. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

**Correction**

In rule FR Doc. 97–28750 published in the **Federal Register** on October 30, 1997, 62 FR 58644, make the following correction to the Keokuk, IA, Class E airspace designation incorporated by reference in 14 CFR 71.1:

**§ 71.1 [Corrected]**

On page 58645, in the third column, in the airspace designation, line 5, correct ''(Lat. 40°27′45″N., long. 91°26′01″ W.)'' to read ''(Lat. 40°27′53″ N., long. 91°26′01″ W.)''.

Issued in Kansas City, MO on January 27, 1998.

**Christopher R. Blum,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 98–3961 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 97–ACE–22]**

## Amendment to Class E Airspace; St. Louis, MO; Correction

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date and correction.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises Class E airspace at St. Louis, MO, and corrects an error in the airspace designation as published in the direct final rule.

**DATES:** The direct final rule published at 62 FR 64148 is effective on 0901 UTC April 23, 1998.

The correction is effective on 0901 UTC April 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** On December 4, 1997, the FAA published in the **Federal Register** a direct final rule and request for comments which modified the Class E airspace at St. Louis, MO (FR Document 97–31704, 62 FR 64148, Airspace Docket No. 97–ACE–22). An error was subsequently discovered in the Class E airspace designation. This action corrects that error and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 23, 1998. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

**Correction**

In rule FR Doc. 97–31704 published in the **Federal Register** on December 4, 1997, 62 FR 64148, make the following correction to the St. Louis, MO, Class E airspace designation incorporated by reference in 14 CFR 71.1:

**§ 71.1 [Corrected]**

On page 64149, in the third column, in the airspace designation, line 5, correct ''(Lat. 38°39′43″N., long. 90°39′00″W.)'' to read ''(Lat. 38°39′43″N., long. 90°39′04″W.)''.

Issued in Kansas City, MO on January 27, 1998.

**Christopher R. Blum,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 98–3960 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Parts 510 and 520

## New Animal Drugs; Change of Sponsor

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from PM Resources, Inc., to Akzo Nobel Surface Chemistry AB.

**EFFECTIVE DATE:** February 19, 1998

**FOR FURTHER INFORMATION CONTACT:** Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

**SUPPLEMENTARY INFORMATION:** PM Resources, Inc., 13001 St. Charles Rock Rd., Bridgeton, MO 63044, has informed FDA that it has transferred ownership of, and all rights and interests in approved NADA 10–886 (Piperazine Monohydrochloride liquid) to Akzo Nobel Surface Chemistry AB, Box 851, S–44485 Stenungsund, Sweden. Accordingly, the agency is amending the regulations in 21 CFR 520.1806 to reflect the change of sponsor. The agency is also amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) by alphabetically adding a new listing for Akzo Nobel Surface Chemistry AB.

**List of Subjects**

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

*21 CFR Part 520*

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR Parts 510 and 520 are amended as follows:

## PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for ''Akzo Nobel Surface Chemistry AB'' and in the table in paragraph (c)(2) by numerically adding a new entry for ''063765'' to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

* * * * *

(c) * * *

(1) * * *

| Firm name and address | Drug labeler code |
|---|---|
| * * * | * * * * |
| Akzo Nobel Surface Chemistry AB, Box 851, S–44485 Stenungsund, Sweden | 063765 |
| * * * | * * * * |

(2) * * *

| Drug labeler code | Firm name and address |
|---|---|
| * * * | * * * * |
| 063765 | Akzo Nobel Surface Chemistry AB, Box 851, S–44485 Stenungsund, Sweden. |
| * * * | * * * * |

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

### § 520.1806 [Amended]

4. Section 520.1806 *Piperazine monohydrochloride liquid* is amended in paragraph (b) by removing ''See 017135 and 060594'' and adding in its place ''See Nos. 017135 and 063765''.

Dated: January 21, 1998.

**Andrew J. Beaulieau,**

*Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 98–4076 Filed 2–18–98; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 510 and 522

### Animal Drugs, Feeds, and Related Products; Doxycycline Hyclate

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Heska Corp. The NADA provides for use of doxycycline hyclate solution for treatment and control of periodontal disease in dogs by application subgingivally to the periodontal pocket(s) of affected teeth.

**EFFECTIVE DATE:** February 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20857, 301–594–1612.

**SUPPLEMENTARY INFORMATION:** Heska Corp., 1825 Sharp Point Dr., Fort Collins, CO 80525, filed NADA 141–082, which provides for use of doxycycline hyclate solution for treatment and control of periodontal disease in dogs by application subgingivally to the periodontal pocket(s) of affected teeth. The NADA is approved as of November 19, 1997, and the regulations are amended by adding new 21 CFR 522.778 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Also, the regulations are amended in § 510.600(c) to add the new sponsor to the list of sponsors of approved applications.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning November 19, 1997, because no active ingredient, including any ester or salt of the active ingredient, has been previously approved in any other application filed under section 512(b)(1) of the act.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

**List of Subjects in**

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

*21 CFR Part 522*

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

## PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in paragraph (c)(1) by alphabetically adding a new entry for ''Heska Corp.'' and in paragraph (c)(2) by numerically

adding a new entry for ''063604'' to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

* * * * *

(c) * * *

(1) * * *

| Firm name and address | Drug labeler code |
|---|---|
| * * * | * * * * |
| Heska Corp., 1825 Sharp Point Dr., Fort Collins, CO 80525 | 063604 |
| * * * | * * * * |

(2) * * *

| Drug labeler code | Firm name and address |
|---|---|
| * * * | * * * * |
| 063604 | Heska Corp., 1825 Sharp Point Dr., Fort Collins, CO 80525. |
| * * * | * * * * |

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

4. Section 522.778 is added to read as follows:

**§ 522.778 Doxycycline hyclate.**

(a) *Specifications.* Doxycycline hyclate solution contains 8.5 percent doxycycline activity. A syringe of *N*-methyl-2-pyrrolidone and poly (DL-lactide) mixed with a syringe of doxycycline produces 0.5 milliliter of solution.

(b) *Sponsor.* See 063604 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Dogs*—(i) *Amount.* Apply subgingivally to periodontal pocket(s) of affected teeth.

(ii) *Indications for use.* For treatment and control of periodontal disease.

(iii) *Limitations.* Do not use in dogs less than 1-year old. Use of tetracyclines during tooth development has been associated with permanent discoloration of teeth. Do not use in pregnant bitches. Use in breeding dogs has not been evaluated. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: January 21, 1998.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 98–4077 Filed 2–18–98; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 526 and 529

### Animal Drugs, Feeds, and Related Products; Cephapirin Sodium for Intramammary Infusion; Redesignation

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to redesignate a section of those regulations. A section reflecting approval of an intramammary product is redesignated from certain other dosage form new animal drugs to intramammary dosage forms to reflect the correct designation of the product.

**EFFECTIVE DATE:** February 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** David L. Gordon, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1739.

**SUPPLEMENTARY INFORMATION:** The animal drug regulations in part 529 (21 CFR part 529) provide for codification of certain other dosage form new animal drugs. The regulations in part 526 (21 CFR part 526) provide for codification of intramammary dosage forms. Cephapirin sodium for intramammary infusion was inadvertently codified as § 529.365. At this time, the animal drug regulations are amended to redesignate § 529.365 as § 526.365.

**List of Subjects**

*21 CFR Parts 526 and 529*

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 526 and 529 are amended as follows:

## PART 526—INTRAMAMMARY DOSAGE FORMS

## PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citations for 21 CFR parts 526 and 529 continue to read as follows:

**Authority:** 21 U.S.C. 360b.

**§ 529.365 [Redesignated as § 526.365]**

2. Section 529.365 is redesignated as § 526.365.

Dated: February 5, 1998.

**Andrew J. Beaulieau,**

*Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 98–4081 Filed 2–18–98; 8:45 am]

BILLING CODE 4160–01–F

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**23 CFR Part 655**

**[FHWA Docket No. FHWA–97–2314]**

**RIN 2125–AD45**

## National Standards for Traffic Control Devices; Revision of the Manual on Uniform Traffic Control Devices; Temporary Traffic Signals

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final amendment to Part VI of the Manual on Uniform Traffic Control Devices (MUTCD).

**SUMMARY:** This document contains an amendment to Part VI of the Manual on Uniform Traffic Control Devices (MUTCD) which has been adopted by the FHWA. The amendment revises the section of the MUTCD concerning temporary traffic signals in order to permit the use of certain temporary signaling devices that were inadvertently excluded by an earlier revision to Part VI. The MUTCD is recognized as the national standard for traffic control on all public roads.

**DATES:** The final rule is effective February 19, 1998. Incorporation by reference of this amendment is approved by the Director of the Federal Register as of February 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael E. Robinson, Office of Highway Safety (HHS–10), (202) 366–2193, or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7, appendix D. The MUTCD (1988 Edition) which includes Part VI (Revision 3, dated 1993) may be purchased for $44 (Domestic) or $55 (Foreign) from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954, Stock No. 650–001–00001–0.

The FHWA both receives and initiates requests for amendments to the MUTCD. Each request is assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received (*e.g.*, REQUEST VI–82(C)).

This amendment contains a revision to Part VI of the MUTCD, Standards and Guides for Traffic Control for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations. Part VI sets forth principles and prescribes standards for temporary traffic control zone operations on streets and highways in the United States.

Also, Part VI addresses the design, administration, and operation of street and highway temporary traffic control plans and projects. Previous **Federal Register** actions regarding changes to Part VI are contained in FHWA docket number 89–1, Notice No. 7, published at 58 FR 65084 on December 10, 1993.

The text change resulting from this amendment to the MUTCD has been titled ''1988 MUTCD Revision 4a (modified).'' It will be available from the Government Printing Office (GPO), Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Everyone currently appearing on the FHWA, Office of Highway Safety, **Federal Register** mailing list will be sent a copy. Those who want to be added to this mailing list should write to FHWA, Office of Highway Safety, HHS–10, 400 Seventh Street, SW., Washington, DC. 20590.

### Summary of Comments

Part VI of the MUTCD was revised on September 3, 1993, and incorporated by reference in 23 CFR part 655 on December 10, 1993 (58 FR 64085). As revised, the last paragraph in section 6F–8C read:

> One-way traffic flow requires an all-red interval of sufficient duration for traffic to clear the portion of the temporary traffic control zone controlled by the traffic signals. To avoid the display of conflicting signals at each end of the temporary traffic control zone, traffic signals shall be either hard-wired or controlled by radio signals.

On January 4, 1995, the FHWA published an interim final rule and request for comments that allowed the use of temporary traffic signals that employ new technology that will guard against conflicting GREEN indications at each end of the temporary traffic control zone.

The FHWA received a total of seven comments pertaining to this amendment. Four of the comments were in favor of the amendment. The major concerns of the three opposing comments relate to the following:

1. Proper signal operation during power failure;
2. Proper signal operation during possible equipment malfunction;
3. Proper signal operation at construction sites where serious vandalism occurred at one end of a two-lane, two-way traffic operation;
4. The extent of a State's obligation to determine if safeguards are in place to avoid the display of conflicting signals at each end of the temporary traffic control zone; and
5. The need to avoid the possibility of green/green conflict.

The FHWA agrees with the concerns of the opposing comments. To address the concerns of the opposing comments, FHWA will revise section 6F–8C to allow new traffic signal technology, to require traffic signals to guard against conflicting GREEN indications, and to use conflict monitors or other similar technology to guard against signal malfunctions whenever the distance between traffic signals is long or restricted. Based on the comments, the last paragraph in section 6F–8C, as revised and adopted by the FHWA in this final rule, reads as follows:

> One-way traffic flow requires an all-red interval of sufficient duration for traffic to clear the portion of the temporary traffic control zone controlled by the traffic signals. To avoid the possibility of GREEN/GREEN conflict at each end of the temporary traffic control zone, the traffic signal shall be either hard-wired, controlled by radio signals, operated manually, or designed to employ other technology that will not allow conflicting signal displays. Whenever the distance between traffic signals is long or restricted, the use of conflict monitors or similar electronic technology that is typically used in traditional traffic signal operations should be considered.

This revised language in section 6F–8C allows the use of new and innovative technology to coordinate signal displays and does not endorse a particular product. It ensures, however, that the concerns of the three opposing individuals must be addressed by all traffic signal manufacturers, regardless of methods used to coordinate signal displays.

### Rulemaking Analyses and Notices

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. The changes proposed in this notice provide additional guidance, clarification, and optional applications for traffic control devices. The FHWA expects that application uniformity will improve at little additional expense to public

agencies or the motoring public. Therefore, a full regulatory evaluation is not required.

*Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities, including small governments. This final amendment allows the use of some alternative traffic control devices and the changes adopted here merely provide expanded guidance and clarification on the selection of appropriate traffic control devices. Based on this evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

*Executive Order 12612 (Federalism Assessment)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action will not have sufficient federalism implications to warrant the preparation of a federalism assessment. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, which requires that changes to the national standards issued by the FHWA shall be adopted by the States or other Federal agencies within two years of issuance. These amendments are in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of the highway. To the extent that these amendments override any existing State requirements regarding traffic control devices, they do so in the interests of national uniformity.

*Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

*Paperwork Reduction Act*

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

*National Environmental Policy Act*

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action does not have any effect on the quality of the environment.

*Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 23 CFR 655**

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

Issued on: February 11, 1998.

**Kenneth R. Wykle,**

*Administrator, Federal Highway Administration.*

The FHWA hereby amends Chapter I of title 23, Code of Federal Regulations, part 655, as set forth below:

## PART 655—TRAFFIC OPERATIONS

1. The authority citation for part 655 continues to read as follows:

**Authority:** 23 U.S.C. 101(a), 104, 105, 109(d), 114(a), 135, 217, 307, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b).

### Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways [Amended]

**§ 655.601 [Amended]**

2. Section 655.601 is amended by revising paragraph (a) to read as follows:

* * * * *

(a) Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), FHWA, 1988, including Revision No. 1 dated January 17, 1990, Revision No. 2 dated March 17, 1992, Revision No. 3 dated September 3, 1993, ''Errata No. 1 to the 1988 MUTCD, Revision No. 3,'' Revision No. 4 dated November 1, 1994, Revision No. 4a (modified) dated February 19, 1998, and Revision No. 5 dated December 24, 1996. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, DC. The 1988 MUTCD, including Revision No. 3 dated September 3, 1993, may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), P.O. Box 371954, Pittsburgh, PA 15250–7954 and has Stock No. 650–001–00001–0. The amendments to the MUTCD, titled ''1988 MUTCD Revision 1,'' dated January 17, 1990, ''1988 MUTCD Revision 2,'' dated March 17, 1992, ''1988 MUTCD Revision No. 3,'' dated September 3, 1993, ''1988 MUTCD Errata No. 1 to Revision No. 3,'' dated November 1, 1994, ''1988 MUTCD Revision No. 4,'' dated November 1, 1994, ''Revision No. 4a (modified),'' dated February 19, 1998, and ''1988 MUTCD Revision No. 5,'' dated December 24, 1996, are available from the Federal Highway Administration, Office of Highway Safety, HHS–10, 400 Seventh Street, SW., Washington, DC 20590. These documents are available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

* * * * *

[FR Doc. 98–4171 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–22–P

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 101–44

**[FPMR Temp. Reg. H–30]**

**RIN 3090–AG63**

### Donation of Federal Surplus Personal Property to Nonprofit Providers of Assistance to Impoverished Families and Individuals

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Temporary regulation.

**SUMMARY:** This regulation establishes policies and procedures for donating Federal surplus personal property to providers of assistance to impoverished families and individuals. It is issued to comply with section 1 of Public Law 105–50, which adds nonprofit providers to the list of organizations authorized to acquire property for educational or public health purposes.

**DATES:** Effective date: February 19, 1998.

Expiration date: February 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Martha Caswell, Director, Personal Property Management Policy Division (202–501–3846).

**SUPPLEMENTARY INFORMATION:** The General Services Administration (GSA) has determined that this is not a significant rule for the purposes of Executive Order 12866.

**Regulatory Flexibility Act**

This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

### Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501–3520. This rule also is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

### List of Subjects in 41 CFR Part 101–44

Government property management, Reporting requirements, Surplus government property.

**Authority:** Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter H to read as follows:

**General Services Administration**

*Washington, DC 20405*

Federal Property Management Regulations, Temporary Regulation H–30

To: Heads of Federal agencies

Subject: Donation of Federal surplus personal property to nonprofit providers of assistance to impoverished families and individuals

1. *Purpose.* This regulation expands eligibility for the Federal surplus personal property donation program to include nonprofit organizations that provide food, clothing, housing, or other assistance to families or individuals with incomes below the poverty line.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register**.

3. *Expiration date.* This regulation expires 2 years from the effective date. Prior to the expiration date, this regulation will be codified in a new regulation named the Federal Property and Administrative Services Regulation (FPASR). The FPASR will replace the Federal Property Management Regulations and appear in 41 CFR Chapter 102.

4. *Applicability.* The provisions of this regulation apply to all State agencies as defined in FPMR 101–44.001–14. Such agencies must follow this regulation and other guidelines in FPMR 101–44.207 when determining an applicant's eligibility as a nonprofit provider.

5. *Background.* Section 1 of Public Law 105–50, signed by the President on October 6, 1997, amended section 203(j)(3)(B) of the Federal Property and Administrative Services Act of 1949, as amended, to add nonprofit organizations that provide assistance to the impoverished to the list of organizations eligible to acquire surplus personal property for educational or public health purposes. Legislative history indicates the intent of this section was to provide surplus property eligibility to charitable organizations such as food banks, Habitat for Humanity, and the Salvation Army. See 143 Cong. Rec. H1941 (daily ed. April 29, 1997) (statement of Rep. Horn). These groups provide goods and services that contribute to the educational growth or general health and well-being of individuals and families below the poverty line. FPMR 101–44.207 is amended to make such providers eligible for Federal surplus personal property donations.

6. *Explanation of changes.* Section 101–44.207 is amended by adding paragraph (a)(18.2) and revising paragraph (c) to read as follows:

**§ 101–44.207 Eligibility.**

* * * * *

(a) * * *

(18.2) *Provider of assistance to impoverished families and individuals* means a public or private, nonprofit tax-exempt organization whose primary function is to provide money, goods, or services to families or individuals whose annual incomes are below the poverty line (as defined in section 673 of the Community Services Block Grant Act) (42 U.S.C. 9902). Providers include food banks, self-help housing groups, and organizations providing services such as the following: Health care; medical transportation; scholarships and tuition assistance; tutoring and literacy instruction; job training and placement; employment counseling; child care assistance; meals or other nutritional support; clothing distribution; home construction or repairs; utility or rental assistance; and legal counsel.

* * * * *

(c) *Eligibility of nonprofit tax-exempt activities.* Surplus personal property may be donated through the State agency to nonprofit tax-exempt activities, as defined in this section, within the State, such as:

(1) Medical institutions;

(2) Hospitals;

(3) Clinics;

(4) Health centers;

(5) Providers of assistance to homeless individuals;

(6) Providers of assistance to impoverished families and individuals;

(7) Schools;

(8) Colleges;

(9) Universities;

(10) Schools for the mentally retarded;

(11) Schools for the physically handicapped;

(12) Child care centers;

(13) Radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations;

(14) Museums attended by the public;

(15) Libraries, serving free all residents of a community, district, State or region; or

(16) Organizations or institutions that receive funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under title IV and title XX of the Social Security Act, or under titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

7. *Effect on other directives.* This regulation modifies the regulations appearing in paragraphs (a) and (c) of FPMR 101–44.207.

Dated: February 5, 1998.

**Thurman M. Davis, Sr.,**

*Acting Administrator of General Services.*

[FR Doc. 98–4149 Filed 2–18–98; 8:45 am]

BILLING CODE 6820–24–P

## GENERAL SERVICES ADMINISTRATION

## 41 CFR CHAPTER 301

**[FTR Amendment 68]**

**RIN 3090–AG43**

## Federal Travel Regulation; Maximum Per Diem Rates

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects entries listed in the prescribed maximum per diem rates for locations within the continental United States (CONUS) contained in a final rule appearing in the **Federal Register** of Tuesday, December 2, 1997 (62 FR 63798). The rule increased/decreased the maximum lodging amounts in certain existing per diem localities, added new per diem localities, deleted a number of previously designated per diem localities, and added information to encourage employees to stay in fire-safe approved accomodations.

**EFFECTIVE DATE:** January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Joddy P. Garner, Office of Governmentwide Policy, (MTT), Washington, DC 20405, telephone 202–501–1538.

**SUPPLEMENTARY INFORMATION:** In rule document 31590 beginning on page 63798 in the issue of Tuesday, December 2, 1997, make the following corrections:

### Appendix A to Chapter 301 [Corrected]

1. On page 63800, under the State of Connecticut, in the 28th line from the bottom under the entry New London/Groton, November 1–May 31, revise the numbers ''50, 34, and 84'' to read ''67, 34, and 101'' in columns three, four, and five, respectively.

2. On page 63804, under the State of Minnesota, in the 32nd line from the top under the entry Minneapolis/St. Paul, column two is revised to add Dakota County.

3. On page 63805, under the State of New Jersey, in the 29th line from the top, under the entry Cherry Hill/Camden/Moorestown, column two is revised to add Burlington County.

The corrected text should read as follows:

APPENDIX—A TO CHAPTER 301—PRESCRIBED MAXIMUM PER DIEM RATES FOR CONUS

| * | * | * | * | * | * | * |
|---|---|---|---|---|---|---|

| Per diem locality | | Maximum lodging amount (includes applicable taxes) (a) | + | M&IE rate (b) | = | Maximum per diem rate 4 (c) |
|---|---|---|---|---|---|---|
| Key city [1] | County and/or other defined location [2,3] | | | | | |
| * * * * * | | * | | * | | |
| CONNECTICUT | | | | | | |
| * * * * * | | * | | * | | |
| New London/Groton, New London | | | | | | |
| (June 1–October 31) | ..... | 87 | | 34 | | 121 |
| (November 1–May 31) | ..... | 67 | | 34 | | 101 |
| * * * * * | | * | | * | | |
| MINNESOTA | | | | | | |
| * * * * * | | * | | * | | |
| Minneapolis/St. Paul, Anoka, Hennepin, Dakota, and Ramsey Counties; Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), Rosemount | ..... | 91 | | 38 | | 129 |
| * * * * * | | * | | * | | |
| NEW JERSEY | | | | | | |
| * * * * * | | * | | * | | |
| | Cherry Hill/Camden/Moorestown, Camden/Burlington. | 74 | | 38 | | 112 |
| * * * * * | | * | | * | | |

Dated: February 10, 1998.

**William T. Rivers,**

*Acting Director, Travel and Transportation Management Policy Division.*

[FR Doc. 98–4150 Filed 2–18–98; 8:45 am]

**BILLING CODE 6820–34–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 970930235–8028–02; I.D. 090397A]**

**RIN 0648–AJ12**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Catch Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), NMFS increases the total allowable catch (TAC) for Atlantic group Spanish mackerel and Gulf group king mackerel, revises the commercial trip limits off the Florida east coast for the Gulf and Atlantic groups of king mackerel, and allows the operator and crew on for-hire vessels to take the bag limit of Gulf group king mackerel. The intended effects of this rule are to protect king and Spanish mackerel from overfishing and to maintain healthy stocks while still allowing catches by important commercial and recreational fisheries.

**DATES:** Effective February 19, 1998, except for the revision of § 622.44(a)(2)(i) which is effective February 24, 1998, and for the addition of introductory text at § 622.44(a)(1) and the revision of § 622.44(a)(1)(iii) which are effective March 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, 813–570–5305.

**SUPPLEMENTARY INFORMATION:** The fisheries for coastal migratory pelagic resources are regulated under the FMP. The FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

In accordance with the framework procedures of the FMP, the Councils recommended, and NMFS published, a proposed rule (62 FR 53278, October 14, 1997) to: (1) For Atlantic migratory groups, increase the commercial quota and recreational allocation for Spanish mackerel and modify the commercial

trip limits off Florida for king mackerel; and (2) for Gulf migratory group king mackerel, increase the commercial quota and recreational allocation, revise the commercial trip limit off the Florida east coast, and restore the bag limit applicable to the operator (captain) and crew of for-hire vessels. That proposed rule described the FMP's framework procedures through which the Councils recommended the changes and explained the need and rationale for them. Those descriptions are not repeated here.

The changes in commercial quotas and recreational allocations are effective commencing with the 1997/98 fishing years, which began for Gulf migratory group king mackerel on July 1, 1997, and for all other groups of Spanish and king mackerel on April 1, 1997.

**Comments and Responses**

Comments were received during the public comment period from the Florida Marine Fisheries Commission (Commission), the South Atlantic Fishery Management Council (SA Council), and a Florida commercial fisherman. A summary of the comments and NMFS' responses follow.

*Increases in TAC*

Comment: The Commission supported the TAC increases for both Gulf group king mackerel and Atlantic group Spanish mackerel. The SA Council reiterated its support for increasing the TAC from 7.0 to 8.0 million lb (3.18 to 3.63 million kg) for Atlantic group Spanish mackerel. The SA Council believes that the increase is a prudent decision that will provide sufficient opportunity for recreational and commercial fishery sectors to maximize the socioeconomic benefits of the resource, despite the inability of the recreational sector to take its allocation in recent years. The SA Council also believes that the TAC increase will not jeopardize the continued progress of the stocks toward the Councils' optimum yield goal of a 40–percent spawning potential ratio.

Response: NMFS concurs. As stated in the preamble to the proposed rule, NMFS preliminarily found the Councils' proposed TACs to be consistent with the FMP and the Magnuson-Stevens Act. Final review of the proposed TACs and the comments received have not altered that determination.

*Bag Limit for Operator and Crew on For-Hire Vessels*

Comment: The Commission supported allowing the operator and crew on for-hire vessels to take the bag limit of Gulf group king mackerel. With the increase in TAC, the Commission believes that a bag limit of zero for such captains and crews is no longer necessary.

Response: NMFS concurs.

*Commercial King Mackerel Trip Limits*

Comment: The SA Council supported all of its trip limit recommendations for commercial vessels harvesting Atlantic group king mackerel off Florida's east and south coasts. It also supported the changes in trip limits proposed for the Gulf group king mackerel in the Florida east coast subzone.

The Commission supported all of the changes in trip limits except the one proposed for Atlantic group king mackerel off Monroe County, FL (including the Florida Keys). The Commission did not support changing the trip limit in that area from 1,250 lb (567 kg) to 125 fish per day. The Commission preferred the status quo (retention of the 1,250–lb (567 kg) trip limit) to simplify the regulations and facilitate law enforcement in that area. The status quo would maintain a year-round 1,250–lb (567 kg) king mackerel trip limit in both state and Federal waters off Monroe County. A 1,250–lb (567 kg) trip limit was established there earlier this year for the hook-and-line fishery for Gulf group king mackerel in the Florida west coast subzone that includes Monroe County from November through March.

Response: NMFS concurs with the Commission. Accordingly, NMFS approves the Councils' trip limit recommendations except the change from pounds to number of fish proposed for Atlantic group king mackerel off Monroe County. The status quo provides a year-round 1,250–lb (567 kg) king mackerel trip limit in both state and Federal waters in that area. This is consistent with the other trip limit approvals in this action and with the trip limits implemented by Florida on January 1, 1998, that provide a year-round 50–fish king mackerel trip limit off southeast Florida for the Atlantic and Gulf groups in both state and Federal waters. The approved trip limits in concert will simplify the regulations in those areas, thus facilitating compliance and enforceability.

Comment: A Florida commercial fisherman expressed his overall disappointment with the current trip limit regime for the hook-and-line fishery for Gulf group king mackerel in the Florida west coast subzone. He also expressed concern that trip limits will continue as a permanent fixture in the FMP.

His comments focused on the efficacy of the trip limit. He believes that the present trip limits fail to meet their stated goals of forestalling early closures and protecting traditional fishermen. Alternatively, he suggested that lengthening the fishing season would be more effectively achieved by addressing the problems of an over-capitalized fleet having to share a restricted quota. Also, he believes that the trip limits unfairly and disproportionately impact the highest producers who are historically the most dependent on the resource.

In addition, he believes that the trip limits are determined in a too arbitrary manner. He preferred that the Councils better define the goals and parameters for setting trip limits to determine more accurately the economic impacts on fishing vessels and businesses.

Finally, he commented that the trip limits compromise the safety of his vessel because they provide insufficient revenue to offset the costs of hiring a crew member. He believes that operating alone is less safe than operating with two persons on board, particularly for vessels that fish far from home port and make return trips under extremely fatiguing conditions to offload daily landings.

Response: These comments all address issues beyond the scope of this action. Trip limits for commercial vessels harvesting Gulf group king mackerel off Florida have been a component of the FMP for almost five years. The Councils proposed, and NMFS approved, the trip limits currently in place for Florida's hook-and-line and run-around gillnet fisheries. Some trip limits were initially implemented under emergency actions (58 FR 10990, February 23, 1993, and 60 FR 7134, February 7, 1995) and others under the annual framework regulatory actions changing catch specifications (58 FR 58509, November 2, 1993; 59 FR 53120, October 21, 1994; and 60 FR 57686, November 17, 1995). The rationale for implementing the trip limits is contained in those actions.

**Changes From the Proposed Rule**

As discussed above, conversion of the daily commercial trip limit for Atlantic group king mackerel off Monroe County (including the Florida Keys) from 1,250 lb (567 kg) to 125 fish was disapproved. Accordingly, the change in the proposed rule to § 622.44(a)(1)(iv) is not included in this final rule.

Language is added at § 622.44(a)(1) to clarify that the trip limits for king mackerel from the Atlantic group apply to vessels for which commercial permits have been issued.

**Classification**

This final rule has been determined to be not significant for purposes of E.O. 12866.

The SA Council determined that the regulatory changes affecting Atlantic groups of king and Spanish mackerel in the framework regulatory action would not have a significant impact on a substantial number of small entities, but the Gulf of Mexico Fishery Management Council (Gulf Council) determined that regulatory changes affecting the Gulf group of king mackerel in that action would have a significant impact on a substantial number of small entities. Accordingly, the SA Council did not prepare an initial regulatory flexibility analysis (IRFA), but the Gulf Council did. NMFS considered all the changes in aggregate and concluded that they would have a positive, significant impact on a substantial number of the small entities in the Atlantic and Gulf areas affected by the changes. Public comments were invited on the framework regulatory action, the proposed rule, the IRFA, and other supporting documents through October 29, 1997. NMFS partially approved the framework action and developed a final regulatory flexibility analysis (FRFA). None of the changes to the proposed rule in this final rule were the result of comments on the IRFA. A summary of the FRFA follows.

Actions proposed in the framework adjustment are designed to stabilize yield at the maximum sustainable yield, maintain adequate recruitment, provide flexible management, and optimize social and economic benefits. During the public comment period, one commercial fisherman commented that trip limits of any sort for Gulf group king mackerel create economic inefficiencies and incentives for fishing during unsafe weather conditions. This comment addresses issues beyond the scope of this year's framework changes. NMFS disapproved the proposed trip limit change for Atlantic group king mackerel off Monroe County (including the Florida Keys) but that disapproval was not the result of comment on the IRFA.

The framework adjustments will affect most of the 3,819 vessels that have permits to harvest king and Spanish mackerel. No recent data are available that describe the precise average or range of vessel-operating costs or annual gross revenues. The framework changes do not alter the compliance costs related to reporting or recordkeeping.

Significant alternatives were identified for the five proposed changes to the framework measures. The alternative to maintain the Gulf group king mackerel TAC at 7.8 million lb (3.54 million kg) was rejected because it would not provide the level of benefits associated with increasing the TAC to 10.6 million lb (4.81 million kg). The Gulf Council also rejected the status quo alternative to maintain the daily trip limit for Gulf group king mackerel in the Florida east coast subzone at the current level, i.e., 750 lb (340 kg) reducing to 500 lb (227 kg) when 75 percent of the quota is taken. The RIR/IRFA indicated that the status quo would provide for an increase in economic benefits relative to the proposed alternative of reducing the trip limit to 50 fish. Nevertheless, the status quo was rejected because the preferred alternative might forestall an early closure of the commercial fishery in the Florida east coast subzone, even though this outcome was unlikely. Also, the preferred alternative would be consistent with the 50–fish trip limit that the SA Council proposed for Atlantic group king mackerel for that same area for the April through October period. Another alternative similar to the preferred alternative was rejected because it would provide slightly less benefits than the preferred alternative.

The Gulf Council rejected the status quo alternative that would have continued the bag limit of zero for Gulf group king mackerel for captains and crews of for-hire vessels. The Gulf Council determined that continuation of the status quo was unnecessary to protect the stocks because the increased TAC was sufficient to allow reinstatement of the 2–fish bag limit to captains and crews without incurring an overrun of the recreational allocation. Also, the Gulf Council preferred the proposed alternative because it provided a greater level of economic benefit than the status quo.

Before making the decision to increase the TAC for Atlantic group Spanish mackerel from 7.0 to 8.0 million lb (3.18 to 3.63 million kg), the SA Council considered and rejected several alternatives. Alternatives for lower TACs were rejected on the basis that they would have provided less economic benefits, whereas alternatives for higher TACs were rejected on the basis that those higher levels would not be reached and, thus, were unrealistic.

The SA Council also proposed changing the trip limits from pounds to number of fish for Atlantic group king mackerel off southeast (Brevard/Volusia to Dade/Monroe Counties) and south (Monroe County) Florida to induce a lower level of catch and to facilitate at-sea enforcement. The SA Council also expected Florida to change its regulations similarly to provide compatible regulations in state waters, thereby enhancing compliance and enforceability. NMFS did not approve the trip limit change for off Monroe County because the proposed trip limit of 125 fish would be inconsistent with the 1,250–lb (567–kg) Gulf group king mackerel trip limit for that area for November through March. For the same reason, Florida decided to reject that change for state waters off Monroe County. Given the small portion of Atlantic group king mackerel taken off Monroe County, NMFS considered that the other socioeconomic benefits offered by the SA Council in support of the proposal would be nominal.

The revisions in this final rule to the bag and possession limits for Gulf migratory group king mackerel at § 622.39(c)(1)(ii) and to the quotas for king and Spanish mackerel at § 622.42(c) relieve restrictions and, pursuant to 5 U.S.C. 553(d)(1), are not subject to a 30-day delay in effective date. Accordingly, these measures are effective February 19, 1998.

The reduction of the commercial trip limit for Gulf migratory group king mackerel in the Florida east coast subzone to 50 fish per day is designed to prevent an early closure of the fishery. The current trip limit, 750 lb (340 kg) per day, allows a higher rate of harvest that could result in the quota being taken and in that sector of the fishery being closed before the Lenten season that is often the most profitable part of the fishing season. Delay in such closure is also expected to contribute to more stable markets by providing fresh fish over a longer period. To obtain the intended benefit of this change during the current fishing year, the reduction should be effective as soon as possible. Accordingly, under 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is contrary to the public interest to delay for the full 30 days the effective date of the reduction of the commercial trip limit for Gulf migratory group king mackerel in the Florida east coast subzone. However, to allow time for this change to be communicated to fishermen, the effective date of this change is delayed to February 24, 1998.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: February 12, 1998.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. Effective February 19, 1998, in § 622.39, paragraph (c)(1)(ii) is revised to read as follows:

**§ 622.39 Bag and possession limits.**

* * * * *

(c) * * *

(1) * * *

(ii) Gulf migratory group king mackerel—2.

* * * * *

3. Effective February 19, 1998, in § 622.42, paragraphs (c)(1)(i) and (c)(2)(ii) are revised to read as follows:

**§ 622.42 Quotas.**

* * * * *

(c) * * *

(1) * * *

(i) *Gulf migratory group*. The quota for the Gulf migratory group of king mackerel is 3.39 million lb (1.54 million kg). The Gulf migratory group is divided into eastern and western zones separated by 87°31'06'' W. long., which is a line directly south from the Alabama/Florida boundary. Quotas for the eastern and western zones are as follows:

(A) *Eastern zone*—2.34 million lb (1.06 million kg), which is further divided into quotas as follows:

(*1*) *Florida east coast subzone*—1.17 million lb (0.53 million kg).

(*2*) *Florida west coast subzone*—1.17 million lb (0.53 million kg), which is further divided into quotas by gear types as follows:

(*i*) 585,000 lb (265,352 kg) for vessels fishing with hook-and-line gear.

(*ii*) 585,000 lb (265,352 kg) for vessels fishing with run-around gillnets.

(*3*) The Florida east coast subzone is that part of the eastern zone north of 25°20.4' N. lat., which is a line directly east from the Dade/Monroe County, FL, boundary, and the Florida west coast subzone is that part of the eastern zone south and west of 25°20.4' N. lat.

(*B*) *Western zone*—1.05 million lb (0.48 million kg).

* * * * *

(2) * * *

(ii) *Atlantic migratory group*. The quota for the Atlantic migratory group of Spanish mackerel is 4.00 million lb (1.81 million kg).

* * * * *

4. Effective March 23, 1998, in § 622.44, paragraph (a)(1) introductory text is added and paragraph (a)(1)(iii) is revised to read as follows:

**§ 622.44 Commercial trip limits.**

* * * * *

(a) * * *

(1) *Atlantic group*. The following trip limits apply to vessels for which commercial permits for king mackerel have been issued, as required under § 622.4(a)(2)(iii):

* * * * *

(iii) In the area between 28°47.8' N. lat. and 25°20.4' N. lat., which is a line directly east from the Dade/Monroe County, FL, boundary, king mackerel in or from the EEZ may not be possessed on board or landed from a vessel in a day in amounts exceeding 50 fish from April 1 through October 31.

* * * * *

5. Effective February 24, 1998, in § 622.44, paragraph (a)(2)(i) is revised to read as follows:

**§ 622.44 Commercial trip limits.**

* * * * *

(a) * * *

(2) * * *

(i) *Florida east coast subzone*. In the Florida east coast subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel for which a commercial permit for king mackerel has been issued, as required under § 622.4(a)(2)(iii), from November 1 each fishing year until the subzone's fishing year quota of king mackerel has been harvested or until March 31, whichever occurs first, in amounts not exceeding 50 fish per day.

* * * * *

6. Effective February 24, 1998, in § 622.44, the first sentence of paragraph (b)(2) is revised to read as follows:

**§ 622.44 Commercial trip limits.**

* * * * *

(b) * * *

(2) For the purpose of paragraph (b)(1)(ii) of this section, the adjusted quota is 3.75 million lb (1.70 million kg). * * *

* * * * *

[FR Doc. 98–4093 Filed 2–18–98; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 970703166–8021–02; I.D. 060997A]**

**RIN 0648–AH65**

## Fisheries of the Exclusive Economic Zone Off Alaska; Multispecies Community Development Quota Program; Eastern Gulf of Alaska No Trawl Zone

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement part of Amendment 5 to the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands (BS/AI), part of Amendment 39 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI), and part of Amendment 41 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). In implementing part of Amendment 5, this rule establishes a BS/AI crab Community Development Quota (CDQ) program. In implementing part of Amendment 39 this rule establishes CDQ reserves for the Multispecies CDQ (MS CDQ) program. In implementing part of this rule, Amendment 41 establishes a no-trawl zone in the eastern GOA. These measures are necessary to implement the amendments submitted by the North Pacific Fishery Management Council (Council) and approved by NMFS. They are intended to accomplish the objectives of these Fishery Management Plans (FMPs) with respect to the management of the BSAI and GOA groundfish fisheries and the BS/AI crab fisheries.

**DATES:** Sections 679.20(b)(1)(iii)(A), (B), and (C), 679.20(c)(1)(iii) and (c)(3)(iii), 679.21(e)(3) and (e)(7)(i), and 679.31(c) are effective February 13, 1998; all other sections of this final rule will be effective March 23, 1998.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for the amendments may be obtained from the North Pacific Fishery Management Council, Suite 306, 605 West 4th Avenue, Anchorage, AK 99501–2252; telephone: 907–271–2809.

**FOR FURTHER INFORMATION CONTACT:** David C. Ham, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

## Background

The U.S. groundfish fisheries of the GOA and the BSAI in the Exclusive Economic Zone (EEZ) are managed by NMFS pursuant to the FMPs for groundfish in the respective management areas. The BS/AI commercial king crab and Tanner crab fisheries are managed by the State of Alaska with Federal oversight, pursuant to the FMP for those fisheries. The FMPs were prepared by the Council, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq*., and are implemented by regulations for U.S. fisheries at 50 CFR part 679. General regulations at 50 CFR part 600 also apply.

NMFS published a proposed rule to implement Amendments 39, 41, and 5 on August 15, 1997 (62 FR 43866). The proposed rule provided background for and described the MS CDQ Program and the License Limitation Program (LLP). NMFS approved these amendments on September 12, 1997. Comments on the proposed rule were invited through September 29, 1997. NMFS received numerous comments on the MS CDQ and LLP programs and anticipates that final rules for all the components of these programs will be published by April 1998.

Because of the size and complexity of the final rule to implement the MS CDQ and LLP programs, the need to respond to the large number of public comments received, and the need to respond to time critical events in the fishery, the LLP and MS CDQ programs will be implemented by means of three separate final rule documents. This final rule is the first of those documents, implementing the time critical components of the MS CDQ and LLP programs. The second and third final rule documents will implement the remaining portions of the LLP and the MS CDQ programs respectively. For the following reasons, three components of the MS CDQ and LLP programs—the crab CDQ program, the groundfish CDQ reserves, and the eastern GOA no-trawl zone—must be in place prior to April 1998 and are implemented under this final rule.

First, CDQ crab fishing is likely to occur in March 1998. In order for communities to realize the benefits of the CDQ crab program, authorizing regulations must be in place prior to March 1998. Second, NMFS must establish the groundfish CDQ reserves during the annual specification process to allow groundfish CDQ fishing to occur later in 1998. By implementing the authority to establish groundfish CDQ reserves before the final annual specifications for 1998 are published, the groundfish CDQ reserves can be included in the final harvest specifications (§ 679.20(c)). With the groundfish CDQ reserves established at the beginning of the fishing year, non-CDQ groundfish fisheries can be conducted with little disruption later in the year when the full MS CDQ program is implemented. Third, the closure of the GOA east of 140° W. long. to vessels fishing for groundfish with gear other than non-trawl gear is implemented at this time because this measure is considered a separate, albeit related, action to the LLP and no reason exists to delay its implementation until the final rule for the LLP program is published.

## Implementation of the Crab CDQ Program

The purpose and goals for expansion of the CDQ program are set forth in the preamble of the proposed rule. This final rule implements the crab CDQ program by establishing the crab CDQ reserve and authorizing the State of Alaska to allocate the crab CDQ reserve among CDQ groups and to manage crab harvesting activity of the BS/AI CDQ groups. As required by the Magnuson-Stevens Act, 3.5 percent of the guideline harvest level (GHL) specified by the State for BS/AI king and Tanner crab will be apportioned to the crab CDQ reserve in 1998. In 1999, the crab CDQ reserve percentage will change to 5.0 percent of the GHL, and, for the year 2000 and each year thereafter, the crab CDQ reserve will be 7.5 percent of the GHL.

Under this final rule, the State of Alaska will submit to NMFS its recommendations for approval of Community Development Plans (CDPs) and allocation of the crab CDQ reserve among CDQ groups. Because the current CDQ halibut and fixed-gear sablefish CDPs expired at the end of 1997, NMFS anticipates that, soon after the effective date of this final rule, the State of Alaska will forward its recommendations for approval of CDPs and allocations of the CDQ reserve established for fixed-gear sablefish, halibut, and crab. Assuming NMFS approves these CDPs, NMFS will publish a notice in the **Federal Register** announcing the approval and allocation percentages of the CDQ reserves as required by 50 CFR § 679.30(c). CDQ fishing for fixed-gear sablefish, halibut, and crab may begin at that time.

## Creation of the Groundfish CDQ Reserves

In implementing the MS CDQ program, this rule requires 7.5 percent of all BSAI total allowable catch (TAC) amounts not already covered by the CDQ program (pollock and fixed gear sablefish) plus 7.5 percent of each prohibited species catch (PSC) limit to be placed in separate CDQ and Prohibited Species Quota (PSQ) reserves. Under the existing fixed-gear sablefish CDQ program, 20 percent of the fixed-gear allocation of sablefish is placed in a fixed-gear sablefish CDQ reserve (§ 679.31(c)). With this rule, the MS CDQ program allocates an additional 7.5 percent of the trawl gear allocation of sablefish to a separate sablefish CDQ reserve. This final rule establishes these groundfish CDQ reserves so that they can be included in the 1998 BSAI groundfish harvest specifications (§ 679.20(c)). After publication of the final specifications, groundfish CDQ fishing in 1998 would be possible, pending timely publication of a final rule for the MS CDQ program.

## GOA No-Trawl Zone

Amendment 41 restricts the type of gear that may be used in Federal waters of the GOA east of 140° W. long. (Southeast Outside District) to non-trawl gear. This management measure is intended to eliminate preemption conflicts between gear types, to prevent fixed gear loss, and to assist fishing communities dependent on the local fisheries in the Southeast Outside District by providing for their sustained participation and by minimizing the adverse impacts on them. Nontrawl gear is defined at 679.2 as hook and line gear, jig gear, longline gear and pot and line gear.

Three types of preemption can occur among competing gear types. First, direct preemption occurs when competing gear types target the same species. Examples of species that could be targeted by trawl gear and fixed gear fisheries in the Southeast Outside District are rockfish species, such as rougheye, other slope rockfish, and thornyhead rockfish. Second, indirect preemption can occur when one gear type, by incidentally catching a species, precludes or diminishes a target fishery of that species by another gear type. Incidental catches of species made by trawl gear can severely limit or preclude fixed gear target fisheries that are critical to the socio-economic viability of small communities in Southeast Alaska. Third, grounds preemption can occur when the operator of a vessel using one type of gear chooses not to

fish in an area because of the gear type being used by the operator of another vessel in the same area. For example, an operator of a vessel using longline gear may be hesitant to deploy gear in an area in which trawl gear will be used because of the possibility of the longline gear being lost or damaged by the trawl gear. Finally, gear loss can occur when different gear types are used in the same area. Losing gear is costly to fishermen and can contribute to higher fishing mortality due to ''ghost fishing.'' Ghost fishing is the term used to describe what occurs when fish are caught by gear that will remain unretrieved because it cannot be located by the operator who deployed it. Fixed gear can become unretrievable when trawl gear is towed over fixed gear sets and moves the sets to a different location or shears buoys from groundlines. Authorizing only non-trawl fishing gear in the Southeast Outside District eliminates direct, indirect, and grounds preemption and reduces the potential for gear loss and ghost fishing.

Small vessel fishermen from communities in Southeast Alaska depend on rockfish species, such as rougheye, other slope rockfish, and thornyhead rockfish, to supplement their incomes, derived mainly from the salmon, sablefish, and halibut fisheries. These small vessel fishermen use primarily fixed gear to catch rockfish species and experience economic hardship when they are deprived of these supplemental fisheries through preemption by trawl gear. The Magnuson-Stevens Act's national standard 8 requires that management measures take into account the importance of fishery resources to fishing communities by providing for the sustained participation of fishing communities and, to the extent practicable, by minimizing adverse economic impacts on fishing communities. Authorizing only non-trawl gear in the Southeast Outside District is intended to meet these requirements.

**Changes From the Proposed Rule**

NMFS is making five changes from the proposed rule in the final rule. First, the final rule references the *C. opilio* PSQ and the *C. Opilio* Bycatch Limitation Zone. The final rule implementing Amendment 40 to the FMP for the Groundfish Fishery of the BSAI established *C. opilio* bycatch management measures (62 FR 66829, December 22, 1997).

Second, the final rule authorizes the Regional Administrator to reallocate any amount of the 1998 groundfish CDQ or PSQ reserve back to the non-Individual Fishing Quota (IFQ) fisheries based on a determination that the reallocated amount will not be used by the 1998 CDQ program. For additional information on the rationale for this authorization, please refer to the response to comment 3.

Third, the regulations governing PSQ reserves are clarified including changing the salmon PSQ reserves from numbers to percentages to ensure consistency with the rest of that section.

Fourth, introductory text is added to § 679.31 for explanatory purposes. Because this final rule implements only the most time critical elements of the LLP/CDQ program, this rule does not include provisions for the non-specific CDQ reserve because it is not part of the specifications process. The non-specific CDQ reserve will be established in the final rule that implements the remainder of the MS CDQ program.

Fifth, § 679.7(j)(2) is redesignated as § 679.7(b) and clarified. Because the LLP will not be implemented prior to the effective date of the prohibition on use of gear other than nontrawl gear in the Southeast Outside District, the statement ''regardless of the gear used to qualify for the license'' is confusing and unnecessary to the management measure. Also, the phrase ''any gear other than legal fixed gear'' has been changed to ''any gear other than non-trawl gear'' for clarity.

Sixth, a technical correction is made in a final rule that was published on February 4, 1998 (63 FR 5836). The appendix heading, ''Appendix A to Subpart F of Part 679.'' is changed to read, ''Appendix A to Part 679.''

**Comments on the Proposed Rule**

The comments below are those comments received by NMFS relating to the crab CDQ program, the 1998 groundfish CDQ reserves, and the eastern GOA trawl closure. All other comments received by NMFS on the proposed rule will be addressed in future final rule documents that will implement the remaining components of the MS CDQ program and LLP.

*Comment 1*: The analysis of the proposal to expand the CDQ program to include 7.5 percent of the groundfish TACs and crab harvests is inadequate. Specifically, it does not analyze the impact of the re-allocation of prohibited species bycatch from the groundfish fleet to the CDQ fleet nor does it analyze the economic impact of the CDQ program allocation on the non-CDQ fleet. In addition, the analysis makes incorrect statements and draws incorrect conclusions about the impact of the MS CDQ program on small entities.

*Response*: NMFS disagrees. The administrative record for this final rule contains adequate information concerning the economic impacts of expanding the CDQ program and the resulting reduction of the amount of groundfish, crab and PSC available to the non-CDQ fleet. Those economic impacts were considered by NMFS during the approval process. The analysis recognizes that the non-CDQ fleet will experience a reduction in the amount of groundfish available for harvest. However, the record also reflects the fact that CDQ communities work with harvesting partners. NMFS recognized that, based on historical performance in the CDQ fisheries, most, if not all, MS CDQ fisheries would be prosecuted by most of the same vessels currently in the fisheries. Under contract to the CDQ groups, owners and operators of those vessels will be required to pay the CDQ groups a fee for the privilege of harvesting the CDQ fish. In turn, the participating vessels will obtain the advantage of longer fishing seasons and possibly improved marketing possibilities. Although no significant dislocations are anticipated for the affected fleets, it is expected that their operations will be modified by the MS CDQ program. For example, the economics of the affected fisheries will be changed due to the royalties paid to the CDQ groups by vessels for the privilege of harvesting CDQ fish. Also, those vessels that are not harvesting for CDQ groups will experience a loss due to the allocation of 7.5 percent of the crab, groundfish, and PSC to the MS CDQ program. While these negative economic impacts were identified, net economic benefits will be derived from implementation of the MS CDQ program.

NMFS also disagrees with Comment 1 concerning the statements and conclusions on the impacts of the MS CDQ program on small entities. The Small Business Administration has defined all independently owned and operated fish-harvesting or hatchery businesses that are not dominant in their field of operation and whose annual receipts are not in excess of $3,000,000 as small businesses. Additionally, seafood processors with 500 or fewer employees, wholesale industry members with 100 or fewer employees, not-for-profit enterprises, and government jurisdictions with a population of 50,000 of less are considered small entities. NMFS generally considers 20 percent of the total universe of small entities affected by a regulation to constitute a ''substantial number.'' A regulation

would have a ''significant economic impact'' on these small entities if it reduced annual gross revenues by more than 5 percent, increased total costs of production by more than 5 percent, resulted in compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities, or caused approximately 2 percent of the affected small businesses to go out of business. NMFS assumes that catcher vessels participating in the Alaska groundfish fisheries are ''small entities'' for purposes of the Regulatory Flexibility Act.

In the preamble to the proposed rule, NMFS concluded that the six CDQ organizations likely would not be classified as ''small entities'' under the guidelines outlined above and that they would not comprise a substantial number of entities operating in the fisheries off Alaska. NMFS recognized that the non-CDQ fleet in the BSAI contains a substantial number of small entities that will be affected by implementation of the MS CDQ program. However, NMFS determined that the 7.5 percent reduction in overall quota available to the non-CDQ fleet would not likely result in a direct 7.5 percent reduction in catch by a small individual fishing operation. This conclusion was based in part on the fact that the 7.5 percent CDQ allocation is taken from the amount of TAC set aside as reserve. Prior to the CDQ program, amounts within this reserve could be allocated to the groundfish fisheries during the fishing year; however, there was and continues to be no guarantee that the reserve will be reallocated later in the season. Further, because the reserve is not species-specific, any amount of the reserve may be apportioned to a target species with exceptions for fixed gear sablefish and the ''other species'' category. For example, if the reserve originally consisted of 100 mt of species A, 100 mt of species B, and 100 mt of species C, the Regional Administrator could allocate up to 300 mt of species A and allocate no additional species B or C provided that such apportionments were consistent with 50 CFR 679.20(a)(3) and do not result in overfishing of a target species or the ''other species'' category.

In additions the benefits of separate management measures that mandate retention and utilization of some groundfish species were also considered and estimated to compensate for the 7.5 percent quota reduction. Also, as stated above, CDQ organizations work with harvesting partners and, based on historical performance in the CDQ fisheries, most, if not all, MS CDQ fisheries would be prosecuted by most of the same vessels currently in the fisheries. While owners and operators of those vessels would be required to pay the CDQ groups a fee for the privilege of harvesting the CDQ fish, the participating vessels will realize some economic benefit from their contractual arrangement with the CDQ organization, lessening any negative economic impact from the reduced overall groundfish quota.

Without more specific references to incorrect information, NMFS concludes that this final rule will not have significant negative economic impacts on those small entities affected by this final rule.

*Comment 2*: A cap should be placed on the 7.5 percent crab allocation to the CDQ fleet, so that the percentage can never be increased.

*Response*: The Magnuson-Stevens Act currently limits the amount of crab that can be allocated to the CDQ program at 7.5 percent. The Magnuson-Stevens Act requires that 3.5 percent of the crab available for commercial harvest in the BS/AI be made available to the CDQ program for 1998. For 1999, the percentage will change to 5.0 percent, and, for each year thereafter, the percentage would be 7.5 percent. Unless the Magnuson-Stevens Act is amended, the 7.5 percent cap cannot be increased.

*Comment 3*: NMFS should adopt regulations that return to the moratorium groundfish fisheries the CDQ reserves that the CDQ fleet will not be able to harvest during the first year of the program.

*Response*: NMFS concurs and has added regulatory language to authorize the Regional Administrator to reallocate any amount of a CDQ reserve back to the non-CDQ fisheries if the Regional Administrator determines that a certain amount will not be used during the remainder of the 1998 fishing year. NMFS anticipates that CDQ reserves in subsequent years will be fully harvested or that only small amounts will remain unharvested. Therefore, provisions to reallocate CDQ reserves past the 1998 fishing year are unnecessary.

*Comment 4*: It is unfair for CDQ groups to have an IFQ-type program that will allow for a rational fishery where rents are captured, while the moratorium groundfish fisheries must continue the race for fish with an ever growing fleet and watch as all rents dissipate and safety deteriorates. The moratorium groundfish fisheries should have an IFQ-type system also.

*Response*: The Council continues to explore management measures to address the over capitalized nature of the moratorium fisheries. The management experience gained through the MS CDQ fisheries can be used to develop and assess future limited access programs for the moratorium fisheries.

*Comment 5*: The action to prohibit the use of trawl gear in the Southeast Outside District is an example of the lack of consideration of reasonable alternatives. The analysis did not provide evidence of a problem with using trawl gear in that area. Also, other alternatives, such as prohibiting only bottom trawl gear as opposed to all trawl gear, should have been considered.

*Response*: The analysis for the LLP did address the use of non-trawl gear only in the Southeast Outside District, although the use of non-trawl gear only in the Southeast Outside District was characterized primarily as an allocation issue. However, in 1992, another analysis was performed on the biological and socio-economic impacts of prohibiting trawl gear in the Southeast Outside District. This analysis addressed such issues as gear conflicts, bycatch problems, localized depletion of non-migratory species and issues of habitat concerns, including trawl gear impacts on deep water corals and benthic habitat. Although the Council chose not to implement a trawl ban in 1992, that decision did not preclude the Council from deciding to implement a trawl ban at this time.

The 1992 analysis contained several alternatives, including an alternative banning only bottom trawl gear. The 1992 analysis was cited in the License Limitation analysis, and the Council was cognizant of these alternatives when it decided to authorize only non-trawl gear in the Southeast Outside District.

The record in support of License Limitation indicated that preemption problems were caused by conflicts between trawl and fixed gear. These conflicts are ameliorated by the trawl ban in the Southeast Outside District (see discussion in this preamble).

*Comment 6*: The prohibition of trawling in the Southeast Outside District provides the Southeast Alaska fishing industry and coastal communities with stability and is consistent with the provisions in the Magnuson-Stevens Act concerning essential fish habitat, fishery dependent communities, and bycatch reduction.

*Response*: NMFS concurs. As stated in the preamble, NMFS is aware that small vessel fishermen from communities in Southeast Alaska depend on rockfish species to supplement their incomes. Without this supplemental income, many of these

small vessel fishermen would experience economic hardship. National standard 8 requires that management measures take into account the importance of fishery resources to fishing communities by providing for the sustained participation of fishing communities and, to the extent practicable, by minimizing adverse economic impacts on fishing communities. NMFS also realizes that, under some circumstances, trawl gear can produce a larger volume of bycatch than fixed gear. National standard 9 requires that management measures, to the extent practicable, minimize bycatch. Finally, NMFS is aware that certain trawl gear can be detrimental to deep water corals and benthic habitats. Section 303(a)(7) of the Magnuson-Stevens Act requires that management measures minimize to the extent practicable adverse effects on fish habitat caused by fishing. National standard 8, national standard 9, and section 303(a)(7) were carefully considered by NMFS when the trawl ban in the Southeast Outside District was approved.

**Classification**

The Administrator, Alaska region, NMFS, determined that Amendment 39 to the BSAI FMP, Amendment 41 to the GOA FMP, and Amendment 5 to the FMP for the Commercial King and Tanner Crab Fisheries of the BS/AI are necessary for the conservation and management of these fisheries and that they are consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the measures this rule would implement would not have a significant economic impact on a substantial number of small entities. NMFS received one comment stating that the analysis made incorrect statements and drew incorrect conclusions about the impacts of the MS CDQ program on small entities. For the reasons stated in the response to comment 1 above, this comment did not cause the Assistant General Counsel for Legislation and Regulation to change his determination regarding the certification. As a result, a regulatory flexibility analysis was not prepared.

The Administrator, Alaska Region, finds, under 5 U.S.C. 553(d)(3), that good cause exists not to delay for 30 days the effective date of the provisions of this final rule that establish and apportion CDQ and PSQ reserves. These provisions will not require affected fishermen to change any of their current fishing practices. Accordingly, it is unnecessary to delay the effective date of these provisions. Therefore, the provisions of this rule that establish and apportion the CDQ and PSQ reserves are effective February 13, 1998.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 12, 1998.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definition of ''Prohibited Species Quota'' is added to read as follows:

**§ 679.2 Definitions.**

* * * * *

*Prohibited species quota* (PSQ) means the amount of a prohibited species catch limit established under § 679.21(e)(1) and (2) that is allocated to the groundfish CDQ program under § 679.21(e)(3).

* * * * *

3. In § 679.7, paragraph (b) is added to read as follows:

**§ 679.7 Prohibitions.**

* * * * *

(b) *Prohibitions specific to GOA*. Use any gear other than non-trawl gear in the GOA east of 140° W. long. (Southeast Outside District).

* * * * *

4. In § 679.20, paragraphs (b)(1)(iii) and (b)(1)(iv) are redesignated as paragraphs (b) (1) (iv) and (b)(1)(v), new paragraph (b)(1)(iii) is added, and paragraphs (c)(1)(iii), (c)(2)(ii), (c)(3)(iii) and (f)(2) are revised to read as follows:

**§ 679.20 General limitations.**

* * * * *

(b) * * *

(1) * * *

(iii) *CDQ reserve*—(A) *Groundfish CDQ reserve*. Except as limited by § 679.31(a) of this part, one half of the nonspecified reserve established by paragraph (b)(1)(i) of this section is apportioned to the groundfish CDQ reserve.

(B) *Fixed gear sablefish CDQ reserves.* Twenty percent of the fixed gear allocation of sablefish established by paragraph (a)(4)(iii) of this section for each subarea or district of the BSAI is apportioned to a CDQ reserve for each subarea or district.

(C) *Apportionment of groundfish CDQ reserve by TAC category*. (*1*) Except for the fixed gear sablefish CDQ reserves, the groundfish CDQ reserve is apportioned among TAC categories in amounts equal to 7.5 percent of each TAC category for which a reserve is established.

(*2*) If the final harvest specifications required by paragraph (c) of this section change the groundfish species comprising a species category or change a TAC by combining management areas or splitting a TAC into two or more TACs by management area, then any CDQ allocations based on those TACs change proportionally.

* * * * *

(c) * * *

(1) * * *

(iii) *BSAI.* The BSAI proposed specifications will specify the annual TAC and initial TAC amounts for each target species and the ''other species'' category and apportionments thereof established by paragraph (a)(2) of this section, PSQ reserves and prohibited species catch allowances established by § 679.21, seasonal allowances of pollock TAC (including pollock CDQ), and CDQ reserve amounts established by paragraph (b)(1)(iii) of this section.

(2) * * *

(ii) *BSAI.* Except for pollock and the hook and line and pot gear allocation of sablefish, one quarter of each proposed initial TAC and apportionment thereof, one quarter of each CDQ reserve established by paragraph (b)(1)(iii) of this section, and one quarter of the proposed PSQ reserve and prohibited species catch allowances established by § 679.21.

(A) The interim specifications for pollock will be equal to the first seasonal allowance under paragraph (a)(5)(i)(A) of this section that is published in the proposed specifications under paragraph (c)(1) of this section.

(B) The interim specifications for CDQ pollock will be equal to the first seasonal allowance that is published in the proposed specifications under paragraph (c)(1) of this section.

(3) * * *

(iii) *BSAI.* The final specifications will specify the annual TAC for each target species and the ''other species''

category and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of the pollock TAC (including pollock CDQ), and CDQ reserve amounts.

* * * * *

(f) * * *

(2) *Retainable amounts*. Except as provided in Table 10 to this part, arrowtooth flounder, retained CDQ species, or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species.

* * * * *

5. In § 679.21, paragraphs (e)(3) through (e)(8) are redesignated as paragraphs (e)(4) through (e)(9), respectively, a new paragraph (e)(3) is added and newly designated paragraph (e)(7)(i) is revised to read as follows:

**§ 679.21 Prohibited species bycatch management.**

* * * * *

(e) * * *

(3) *PSC apportionment to PSQ*. 7.5 percent of each PSC limit established by paragraphs (e)(1) and (e)(2) of this section is allocated to the groundfish CDQ program as PSQ reserve.

* * * * *

(7) * * *

(i) *General*. NMFS will publish annually in the **Federal Register** the annual red king crab PSC limit, and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final PSQ reserve amounts, the proposed and final bycatch allowances, the seasonal apportionments thereof and the manner in which seasonal apportionments of non-trawl fishery bycatch allowances will be managed as required by paragraph (e) of this section.

* * * * *

6. Section 679.31 is revised to read as follows:

**§ 679.31 CDQ and PSQ reserves.**

Portions of the CDQ and PSQ reserves for each subarea or district may be allocated for the exclusive use of CDQ applicants in accordance with CDPs approved by the Governor in consultation with the Council and approved by NMFS. NMFS will allocate no more than 33 percent of the total CDQ for all subareas and districts combined to any one applicant with an approved CDP application.

(a) *Pollock CDQ reserve (applicable through December 31, 1998)*. In the proposed and final harvest specifications required by § 679.20(c), one-half of the pollock TAC placed in the reserve for each subarea or district of the BSAI will be apportioned to a CDQ reserve for each subarea or district.

(b) *Halibut CDQ reserve*. (1) NMFS will annually withhold from IFQ allocation the proportions of the halibut catch limit that are specified in paragraph (b) of this section for use as a CDQ reserve.

(2) Portions of the CDQ for each specified IPHC regulatory area may be allocated for the exclusive use of an eligible Western Alaska community or group of communities in accordance with a CDP approved by the Governor in consultation with the Council and approved by NMFS.

(3) The proportions of the halibut catch limit annually withheld for the halibut CDQ program, exclusive of issued QS, and the eligible communities for which they shall be made available are as follows for each IPHC regulatory area:

(i) *Area 4B*. In IPHC regulatory area 4B, 20 percent of the annual halibut quota shall be made available to eligible communities physically located in, or proximate to, this regulatory area.

(ii) *Area 4C*. In IPHC regulatory area 4C, 50 percent of the halibut quota shall be made available to eligible communities physically located in IPHC regulatory area 4C.

(iii) *Area 4D*. In IPHC regulatory area 4D, 30 percent of the annual halibut quota shall be made available to eligible communities located in, or proximate to, IPHC regulatory areas 4D and 4E.

(iv) *Area 4E*. In IPHC regulatory area 4E, 100 percent of the halibut quota shall be made available to eligible communities located in, or proximate to, IPHC regulatory area 4E. A fishing trip limit of 6,000 lb (2.7 mt) applies to halibut CDQ harvesting in IPHC regulatory area 4E.

(4) For the purposes of this section, ''proximate to'' an IPHC regulatory area means within 10 nm from the point where the boundary of the IPHC regulatory area intersects land.

(c) *Groundfish CDQ reserves*. (See § 679.20(b)(1)(iii))

(d) *Crab CDQ reserves*. King and Tanner crab species in the Bering Sea and Aleutian Islands Area that have a guideline harvest level specified by the State of Alaska that is available for commercial harvest are apportioned to a crab CDQ reserve as follows:

(1) For calendar year 2000, and thereafter, 7.5 percent;

(2) For calendar year 1999 (applicable through December 31, 1999), 5 percent; and

(3) For calendar year 1998 (applicable through December 31, 1998), 3.5 percent.

(e) *PSQ reserve*. (See § 679.21(e)(3)).

(f) *Reallocation of CDQ or PSQ reserves* (Applicable through December 31, 1998). If the Regional Administrator determines that any amount of a CDQ or PSQ reserve will not be used during the remainder of the 1998 fishing year, the Regional Administrator may reallocate any unused amount of the CDQ reserve back to the non-specified reserve established by § 679.20(b)(1)(ii) and may reallocate any unused amount of a PSQ reserve back to non-CDQ fisheries in proportion to those fisheries' 1998 apportionment of PSC limits established by § 679.21.

**Technical Correction--Appendix A to Part 679 [Corrected]**

7. In FR Doc. 98–2244 published on February 4, 1998 (63 FR 5836), make the following correction. On page 5845, in the second column, seventh line, correct the first line of the Appendix heading now reading, ''Appendix A to Subpart F of Part 679'' to read ''Appendix A to Part 679''.

[FR Doc. 98–4092 Filed 2–13–98; 9:05 am]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 63, No. 33
Thursday, February 19, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 71

**[Docket No. PRM–71–12]**

### International Energy Consultants, Inc.; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the International Energy Consultants, Inc. The petition has been docketed by the Commission and has been assigned Docket No. PRM–71–12. The petitioner requests that the NRC amend its regulations that govern packaging and transportation of radioactive material. The petitioner believes that special requirements for plutonium shipments should be eliminated.

**DATES:** Submit comments by May 5, 1998. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

**ADDRESSES:** Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Carol Gallagher, 301–415–5905 (e-mail: CAG@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–7162 or Toll Free: 800–368–5642 or e-mail: DLM1@nrc.gov.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Nuclear Regulatory Commission received a petition for rulemaking submitted by Frank P. Falci on behalf of the International Energy Consultants, Inc. in the form of a letter addressed to the Secretary of the Commission, dated September 25, 1997. The petitioner believes that 10 CFR 71.63(b) should be eliminated. As an option, the petitioner believes that 10 CFR 71.63(a) should also be eliminated. This option would totally eliminate 10 CFR 71.63. The petitioner made the same recommendation in a letter dated July 22, 1997, which he provided as a comment in the Commission's proposed rulemaking amending 10 CFR 71.63(b) to remove canisters containing vitrified high-level waste from the packaging requirement for double containment.

The petition was docketed as PRM–71–12 on October 22, 1997. The NRC is soliciting public comment on the petition. Public comment is requested on both the petition to eliminate 10 CFR 71.63(b), as well as the option to eliminate 10 CFR 71.63 totally, as discussed below.

#### Discussion of the Petition

NRC's regulations in 10 CFR Part 71, entitled ''Packaging and Transportation of Radioactive Material,'' include, in § 71.63, special requirements for plutonium shipments: § 71.63 Special requirements for plutonium shipments.

(a) Plutonium in excess of 20 Ci (0.74 TBq) per package must be shipped as a solid.

(b) Plutonium in excess of 20 Ci (0.74 TBq) per package must be packaged in a separate inner container placed within outer packaging that meets the requirements of subparts E and F of this part for packaging of material in normal form. If the entire package is subjected to the tests specified in § 71.71 (''Normal conditions of transport''), the separate inner container must not release plutonium as demonstrated to a sensitivity of $10^{-6}$ $A_2$/h. If the entire package is subjected to the tests specified in § 71.73 (''Hypothetical accident conditions''), the separate inner container must restrict the loss of plutonium to not more than $A_2$ in 1 week. Solid plutonium in the following forms is exempt from the requirements of this paragraph:

(1) Reactor fuel elements;

(2) Metal or metal alloy; and

(3) Other plutonium bearing solids that the Commission determines should be exempt from the requirements of this section.

The petitioner requests that § 71.63(b) be deleted. The petitioner believes that provisions stated in this regulation cannot be supported technically or logically. The petitioner states that based on the ''Q-System for the Calculation of $A_1$ and $A_2$ Values,'' an $A_2$ quantity of any radionuclide has the same potential for damaging the environment and the human species as an $A_2$ quantity of any other radionuclide. The petitioner further states that the requirement that a Type B package must be used whenever package content exceeds an $A_2$ quantity should be applied consistently for any radionuclide. The petitioner believes that if a Type B package is sufficient for a quantity of a radionuclide X which exceeds $A_2$, then a Type B package should be sufficient for a quantity of radionuclide Y which exceeds $A_2$, and this should be similarly so for every other radionuclide.

The petitioner states that while, for the most part, the regulations embrace this simple logical congruence, the congruence fails under § 71.63(b) because packages containing plutonium must include a separate inner container for quantities of plutonium having an activity exceeding 20 curies (0.74 TBq). The petitioner believes that if the NRC allows this failure of congruence to persist, the regulations will be vulnerable to the following challenges:

(1) The logical foundation of the adequacy of $A_2$ values as a proper measure of the potential for damaging the environment and the human species, as set forth under the Q-System, is compromised;

(2) The absence of a radioactivity limit for every radionuclide which, if

exceeded, would require a separate inner container, is an inherently inconsistent safety practice; and

(3) The performance requirements for Type B packages as called for by 10 CFR Part 71 establish containment conditions under different levels of package trauma. The satisfaction of these requirements should be a matter of proper design work by the package designer and proper evaluation of the design through regulatory review. The imposition of any specific package design feature such as that contained in 10 CFR 71.63(b) is gratuitous. The regulations are not formulated as package design specifications, nor should they be.

The petitioner believes that the continuing presence of § 71.63(b) engenders excessively high costs in the transport of some radioactive materials without a clearly measurable net safety benefit. The petitioner states that this is so in part because the ultimate release limits allowed under Part 71 package performance requirements are identical with or without a ''separate inner container,'' and because the presence of a ''separate inner container'' promotes additional exposures to radiation through the additional handling required for the ''separate inner container.'' The petitioner further states that ''* * * excessively high costs occur in some transport campaigns,'' and that one example ''* * * of damage to our national budget is in the transport of transuranic wastes.'' Because large numbers of transuranic waste drums must be shipped in packages that have a ''separate inner container'' to comply with the existing rule, the petitioner believes that large savings would accrue without this rule. Therefore, the petitioner believes that elimination of § 71.63(b) would resolve these regulatory ''defects.''

As a corollary to the primary petition, the petitioner believes that an option to eliminate § 71.63(a) as well as § 71.63(b) should also be considered. This option would have the effect of totally eliminating § 71.63. The petitioner believes that the arguments propounded to support the elimination § 71.63(b) also support the elimination of § 71.63(a).

**The Petitioner's Conclusions**

The petitioner has concluded that NRC regulations in 10 CFR Part 71 which govern packaging and transportation of radioactive material must be amended to delete the provision regarding special requirements for plutonium shipments. The petitioner believes that a Type B package should be sufficient for a quantity of radionuclide Y which exceeds the $A_2$ limit if such a package is sufficient for a quantity of radionuclide X which exceeds the $A_2$ limit. It is the petitioner's view that this should be true for every other radionuclide including plutonium.

Dated at Rockville, Maryland, this 11th day of February 1998.

For the Nuclear Regulatory Commission.

**John C. Hoyle,**

*Secretary of the Commission.*

[FR Doc. 98–4146 Filed 2–18–98; 8:45 am]

BILLING CODE 7590–01–P

## FEDERAL ELECTION COMMISSION

## 11 CFR Part 100

**[Notice 1998–6]**

## Definition of ''Express Advocacy''

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of disposition of petition for rulemaking.

**SUMMARY:** The Commission announces its disposition of a Petition for Rulemaking filed on October 20, 1997 by James Bopp, Jr., on behalf of the James Madison Center for Free Speech. The petition urged the Commission to revise its definition of ''express advocacy'' to reflect a recent U.S. Circuit Court of Appeals Decision. The Commission has decided not to initiate a rulemaking in response to this Petition.

**DATES:** February 12, 1998.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** On October 20, 1997, the Commission received a Petition for Rulemaking from James Bopp, Jr., on behalf of the James Madison Center for Free Speech. The Petition urged the Commission to revise the definition of ''express advocacy'' set forth at 11 CFR 100.22 to reflect the decision in *Maine Right to Life Committee* v. *FEC,* 914 F.Supp. 8 (D.Me. 1995), *aff'd per curiam,* 98 F.3d 1 (1st Cir. 1996), *cert. denied,* 118 S.Ct. 52 (1997). Specifically, the Petition urges repeal of 11 CFR 100.22(b), which was held invalid in that case. The challenged paragraph defines ''express advocacy'' to include communications in which the electoral portion is ''unmistakable, unambiguous, and suggestive of only one meaning, and reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.''

The Fourth Circuit reached a similar conclusion in *FEC* v. *Christian Action Network (''CAN''),* 92 F.3d 1178 (4th Cir. 1997). However, the Ninth Circuit earlier reached a contrary result in *FEC* v. *Furgatch,* 807 F.2d 857 (9th Cir.), *cert. denied,* 484 U.S. 850 (1987), the decision on which 11 CFR 100.22(b) is largely based. Thus there is a conflict among the circuits on this issue.

The Commission published a Notice of Availability on the Petition on November 6, 1997, 62 FR 60047. In response, the Commission received comments from American Target Advertising, Inc.; the Brennan Center for Justice; Common Cause; Alan Dye, of Webster, Chamberlain & Bean; the Attorney General for the State of Hawaii; the Attorney General for the State of Iowa; the Attorney General for the Commonwealth of Kentucky; U.S. Senator Carl Levin; the National Voting Rights Institute; the Attorney General for the State of New Mexico; the Attorney General for the State of Oklahoma; the Republican National Committee; and the State of Vermont. After reviewing these comments and other information, the Commission has decided not to open a rulemaking in response to this Petition.

First, the Supreme Court has repeatedly admonished ''that denial of a petition for certiorari imports nothing as to the merits of a lower court decision.'' *Griffin* v. *United States,* 336 U.S. 704, 716 (1949), *reh. denied,* 337 U.S. 921. This is especially true where, as here, the Court has declined to review decisions from different circuits that reach different results on the same question.

Consistent with this reasoning, while Supreme Court decisions are binding nationwide, the rule of *stare decisis* requires only that a decision by a circuit court of appeals be followed within the circuit in which it is issued. Since government agencies typically operate nationwide, it is not unusual for an agency to find that different courts have interpreted its statutes or rules in different ways.

The Supreme Court has recognized that, when confronted with this situation, an agency is free to adhere to its preferred interpretation in all circuits that have not rejected that interpretation. It is collaterally estopped only from raising the same claim against the same party in any location, or from continuing to pursue the issue against any party in a circuit that has already rejected the agency's interpretation.

*United States* v. *Mendoza*, 464 U.S. 154 (1984). Indeed, the *Mendoza* Court encouraged agencies to seek reviews in other circuits if they disagree with one circuit's view of the law, since to allow ''only one final adjudication would deprive this Court of the benefit it receives from permitting several courts of appeals to explore a difficult question before this Court grants *certiorari*.'' *Id*. at 160 (citations omitted). Thus, Petitioner's assertion that the Commission's action in declining to follow one Circuit Court's decision nationwide is ''unprecedented'' is incorrect. Rather, it is the norm.

However, the primary reason for the Commission's decision not to open a rulemaking in response to this Petition is its continued belief that the definition of ''express advocacy'' found at 11 CFR 100.22(b) is constitutional. A communication that is ''unmistakable, unambiguous, and suggestive of only one meaning,'' where ''reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action'' can be read consistently with both *Buckley* v. *Valeo*, 424 U.S. 1 (1976), and *FEC* v. *Massachusetts Citizens for Life*, 238, 249 (1986) (''*MCFL*'').

While the *Buckley* Court gave specific examples of words it found to convey express advocacy, it made clear that the list was not exhaustive. *Buckley*, 424 U.S. at 44 n.52. Further, in discussing the reporting requirements triggered by independent expenditures made to fund ''express advocacy'' communications, the Court noted that this portion of the Federal Election Campaign Act, 2 U.S.C. 434(c), reaches ''only funds that expressly advocate the election or defeat of a clearly identified candidate,'' adding that ''[t]his reading is directed precisely to that spending that is unambiguously related to the campaign of a particular federal candidate.'' *Id*. at 80 (footnote omitted). In *MCFL*, the Court held that materials that were ''marginally less direct than 'Vote for Smith' '' were, nevertheless, express candidate advocacy, even though the materials themselves stated that they were not endorsing particular candidates. *MCFL*, 479 U.S. at 249. One commenter, who believes that *Furgatch* correctly held that a ''short list of words * * * does not exhaust the capacity of the English language'' to advocate the election or defeat of a candidate, 807 F.2d at 863, noted that, under the change proposed by the Petitioner, ''only those who lacked the minimal wherewithal to choose some words other than 'vote for' or the like would be subject to the regulation.''

In sum, both because it is well settled that a decision by one Circuit Court of Appeals is not binding in other circuits, and because the Commission believes the challenged regulation is constitutional, the Commission has decided not to open a rulemaking in response to this Petition.

Therefore, at its open meeting of February 12, 1998, the Commission voted not to initiate a rulemaking to revise the Commission's definition of express advocacy found at 11 CFR 100.22. Copies of the General Counsel's recommendation on which the Commission's decision is based are available for public inspection and copying in the Commission's Public Records Office, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–4140 or toll-free (800) 424–9530. Interested persons may also obtain a copy by dialing the Commission's FAXLINE service at (202) 501–3413 and following its instructions. Request document # 232.

Dated: February 13, 1998.

**Joan D. Aikens,**

*Chairman, Federal Election Commission.*

[FR Doc. 98–4166 Filed 2–18–98; 8:45 am]

**BILLING CODE 6715–01–P**

## FEDERAL HOUSING FINANCE BOARD

### 12 CFR Part 933

**[No. 98–05]**

**RIN 3069–AA67**

### Membership Approval

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation on membership in the Federal Home Loan Banks (Banks) (Membership Regulation) to make certain technical and substantive revisions to the regulation that would improve the operation of the membership application process, as well as further streamline application processing for certain types of applicants for Bank membership.

**DATES:** Comments on this proposed rule must be received in writing on or before March 23, 1998.

**ADDRESSES:** Comments should be mailed to: Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** Richard Tucker, Deputy Director, Compliance Assistance Division, Office of Policy, (202) 408–2848, or Sharon B. Like, Senior Attorney-Adviser, Office of General Counsel, (202) 408–2930, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

**SUPPLEMENTARY INFORMATION:**

#### I. Statutory and Regulatory Background

Under the Federal Home Loan Bank Act (Act), the Finance Board is responsible for the supervision and regulation of the 12 Banks, which provide advances and other financial services to their member institutions. See 12 U.S.C. 1422a(a). Institutions may become members of a Bank if they meet certain membership eligibility and minimum stock purchase criteria set forth in the Act and the Finance Board's implementing Membership Regulation. See *id*. sections 1424, 1426, 1430(e)(3); 12 CFR part 933.

On August 16, 1996, the Finance Board published a final rule amending the Membership Regulation to authorize the 12 Banks, rather than the Finance Board, to approve or deny all applications for Bank membership, subject to certain criteria for determining compliance with the statutory eligibility requirements for Bank membership formerly contained in policy guidelines used by the Finance Board in approving membership applications. See 61 FR 42531 (Aug. 16, 1996) (codified at 12 CFR part 933); Federal Home Loan Bank System Membership Application Guidelines, Finance Board Res. No. 93–88 (Nov. 17, 1993) (Guidelines). The final rule also provided for streamlined application processing for certain types of membership applications. See 12 CFR part 933.

In the course of processing and approving membership applications under the Membership Regulation, the Banks have raised a number of technical and substantive issues with the Regulation whose resolution would improve operation of the membership application process and streamline membership application processing for certain types of institutions. These issues and proposed amendments for addressing these issues are discussed below in the **ANALYSIS OF PROPOSED RULE** section. The Finance Board requests comment on all aspects of the proposed amendments.

## II. Analysis of Proposed Rule

*A. Definitions Section 933.1*

1. Definition of ''Primary Regulator''—Section 933.1(y)

Section 933.1(y) of the current Membership Regulation defines the term ''primary regulator'' as the chartering authority for federally-chartered applicants, the insuring authority for federally-insured applicants that are not federally-chartered, or the appropriate state regulator for all other applicants. See *id*. § 933.1(y). This definition does not include the Federal Reserve Board (FRB) for state-chartered applicants that are members of the Federal Reserve System (FRS). Under § 933.11(a)(3), a Bank is required to obtain as part of the membership application the applicant's most recent available regulatory examination report prepared by its primary regulator or appropriate state regulator. See *id*. § 933.11(a)(3). Section 933.11(b)(1) provides that an applicant must have received a composite regulatory examination rating from its primary regulator or appropriate state regulator within two years preceding the date the Bank receives the application for membership. See *id*. § 933.11(b)(1).

One Bank has identified a potential problem with meeting these financial condition requirements where the FRB and a state financial institution regulator alternate examinations of a state-chartered applicant that is an FRS member. When the state financial institution regulator performs the examination, it provides a copy of the regulatory examination report to the FRB. According to the Bank, certain state financial institution regulators in its district cannot or will not release to the Bank copies of the regulatory examination reports they have prepared, nor will the FRB release to the Bank copies of the state regulatory examination reports. Thus, regulatory examination reports prepared under such circumstances are not available in order for the Bank to obtain a regulatory examination rating for the applicant. Nor may the Bank obtain and rely on a copy of the regulatory examination report and rating of the FRB when the FRB has examined the applicant, because the definition of ''primary regulator'' in § 933.1(y) does not include the FRB. Thus, in such situations, the Bank may not be able to obtain any examination report and rating for the applicant and, therefore, the applicant cannot be deemed to satisfy the financial condition requirements of § § 933.11(a)(3) and (b)(1). The presumption of noncompliance with the financial condition requirements would have to be rebutted under § 933.17(d)(1) by preparing a written justification providing substantial evidence acceptable to the Bank that the applicant is in the financial condition required by § 933.6(a)(4), notwithstanding the lack of a regulatory examination rating. See *id*. § 933.17(d)(1).

The exclusion of the FRB from the definition of ''primary regulator'' in § 933.1(y) was an oversight. The Banks should be able to rely on regulatory examination reports and examination ratings from the FRB to determine an applicant's financial condition under § 933.11. An applicant should not have to go through the additional burden of establishing its satisfactory financial condition through the rebuttal process if an FRB regulatory examination report and rating are available. Accordingly, the proposed rule revises the definition of ''primary regulator'' in § 933.1(y), as further described below, to include the FRB.

Another limitation of the current definition of *primary regulator* in § 933.1(y) is that it requires a Bank to obtain the regulatory examination report and rating only from the ''primary'' regulator listed, even though a regulatory examination report and rating from an alternate regulator also may be available. For example, many potential members are examined by more than one regulator. However, under the regulation, the Bank is required to obtain the regulatory examination report and rating prepared by the Federal Deposit Insurance Corporation (FDIC) for a state-chartered, FDIC-insured institution, even though there may be a more recent state regulatory examination report and rating available for such institution. A Bank should not be limited to using only the ''primary'' regulator's regulatory examination report and rating when more current information is available.

Accordingly, the proposed rule amends § 933.1(y) by changing the term ''primary regulator'' to the broader term ''appropriate regulator,'' and defining it to mean a regulatory entity listed in § 933.8, as applicable. The regulatory entities listed in § 933.8 are: for depository institution applicants, the FDIC, FRB, National Credit Union Administration, Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), or other appropriate state regulator; and for insurance company applicants, an appropriate state regulator accredited by the National Association of Insurance Commissioners. See *id*. § 933.8. The proposed rule replaces the terms ''primary regulator'' and ''primary regulator or appropriate state regulator'' wherever they appear throughout the Membership Regulation with the term ''appropriate regulator.''

2. Nonperforming Assets Performance Trend Criterion; Definitions of ''Nonperforming Loans, Leases and Securities;'' ''Performing Loans, Leases and Securities''—Sections 933.11(b)(3)(i)(B); 933.1 (u), (x).

Section 933.11(b)(3)(i)(B) of the current Membership Regulation provides that if an applicant's most recent composite regulatory examination rating within the past two years was ''2'' or ''3,'' the applicant's nonperforming loans, leases and securities plus foreclosed and repossessed real estate may not have exceeded 10 percent of its performing loans, leases and securities plus foreclosed and repossessed real estate, in the most recent calendar quarter. See *id*. § 933.11(b)(3)(i)(B). This nonperforming assets performance trend criterion was intended to be the same criterion as that required in the former Finance Board Guidelines, but was described incorrectly in the Membership Regulation.

The proposed rule revises § 933.11(b)(3)(i)(B) to state the criterion correctly, as follows: the applicant's nonperforming loans and leases plus other real estate owned, did not exceed 10 percent of its total loans and leases plus other real estate owned, in the most recent calendar quarter. The proposed rule makes a conforming change to the definition of ''nonperforming loans, leases and securities'' in § 933.1(u) by deleting the references to securities. The proposed rule also makes a conforming change to § 933.1(x) by replacing the definition of ''performing loans, leases and securities'' with a new definition of ''other real estate owned.''

3. Definition of ''Consolidation''—Section 933.1(ee)

Sections 933.24 and 933.25 of the current Membership Regulation set forth certain requirements and procedures in the event of the ''consolidation'' of members with other members or members with nonmembers. See *id*. §§ 933.24, 933.25. Questions have been raised as to whether the term ''consolidation'' applies only to transactions falling within the narrow meaning of the term, *i.e.*, combinations where a new company is formed to acquire the net assets of the combining companies. The term ''consolidation'' was not intended to apply solely to such combinations of entities. Accordingly, the proposed rule clarifies this issue by

adding a new definition of ''consolidation'' in § 933.1(ee) to include a consolidation, a merger, or a purchase of all of the assets and assumption of all of the liabilities of an entity by another entity.

*B. Action on Applications—Section 933.3(c)*

Section 933.3(c) of the current Membership Regulation requires a Bank to notify an applicant when its application is deemed by the Bank to be complete. See *id*. § 933.3(c). Section 933.3(c) also requires a Bank to notify an applicant if the 60-day period for acting on a membership application is stopped, and when the period for acting on the application is resumed. See id. The proposed rule requires the Bank to provide such notices to the applicant in writing. This will ensure that there is a written record of the Banks' actions during the application processing period, which may be relevant in the event of an appeal of a Bank's denial of an application for membership.

*C. Automatic Membership for Certain Consolidations—Section 933.4(d)*

Sections 933.4 (a) and (b) of the current Membership Regulation provide for automatic Bank membership only for institutions required by law to become Bank members, and for institutions that have undergone certain charter conversions, respectively. See *id*. § § 933.4 (a), (b). Several Banks have suggested that the regulation also should allow for automatic Bank membership where a member consolidates with a nonmember, the nonmember is the surviving entity, and a significant percentage of the surviving entity's total assets are derived from the assets of the disappearing member. Where the surviving entity has substantially the same assets as the disappearing member, the surviving entity arguably should not have to go through the membership application process. The Finance Board believes this argument has merit where 90 percent or more of the total assets of the surviving entity are derived from the assets of the disappearing member, and where the surviving entity provides written notice to the Bank that it desires to be a member of the Bank. These proposed requirements are set forth in proposed new § 933.4(d).

The Finance Board specifically requests comment on the arguments for or against this proposal, including whether the 90 percent calculation or some other number or approach is an appropriate method for determining the similarity of the disappearing and surviving entities. One Bank has suggested that the chief executive officer (CEO) of the surviving entity should be required to submit a letter stating that the surviving entity continues to meet the membership eligibility requirements. The Finance Board specifically requests comment on whether such a letter, or a certification from the CEO, should be required.

*D. Allowance for Loan and Lease Losses Performance Trend Criterion—Section 933.11(b)(3)(i)(C)*

Section 933.11(b)(3)(i)(C) of the current Membership Regulation provides that if an applicant's most recent composite regulatory examination rating within the past two years was ''2'' or ''3,'' the applicant's ratio of its allowance for loan and lease losses to nonperforming loans, leases and securities must have been 60 percent or greater during 4 of the 6 most recent calendar quarters. This allowance for loan and lease losses performance trend criterion was intended to be the same criterion as that required in the former Finance Board Guidelines, but was described incorrectly in the Membership Regulation. The proposed rule revises this section to state the criterion correctly, as follows: The applicant's ratio of its allowance for loan and lease losses plus the allocated transfer risk reserve to nonperforming loans and leases was 60 percent or greater during 4 of the 6 most recent calendar quarters.

*E. De Novo Insured Depository Institution Applicants—Section 933.14*

Section 933.14 of the current Membership Regulation sets forth the requirements for processing and approving membership applications from de novo insured depository institution applicants. See *id*. § 933.14. Section 933.14(a) provides for streamlined processing for newly-chartered applicants that have not yet commenced operations, which are deemed to meet the duly organized, inspection and regulation, financial condition, and character of management eligibility requirements. See id. § 933.14(a)(1). Section 933.14(b) requires newly-chartered applicants that have commenced operations to meet all of the eligibility requirements, subject to certain exceptions provided in paragraph (b). In particular, if such applicants have not yet filed regulatory financial reports for the last six calendar quarters preceding the date the Bank receives the membership application, the applicant need not meet the performance trend criteria in § 933.11(b)(3)(i) (A) through (C) if the applicant has filed regulatory financial reports for at least three calendar quarters of operation. See *id*. § 933.14(b)(2)(iii)(A).

A number of Banks have stated that the requirement for having filed three calendar quarters of regulatory financial reports should not be necessary for institutions that have recently commenced operations. The financial condition and character of management of such institutions already will have been recently reviewed and approved by their chartering and insuring regulators (see, *e.g.*, 12 U.S.C. 1816, 12 CFR 303.7(d)(ii) (FDIC); 12 U.S.C. 26, 12 CFR 5.20 (OCC)), will have been based on a forward looking business plan, and should not have changed significantly since the commencement of operations. The Banks should not have to duplicate the review performed by the prospective member's appropriate regulator. Further, de novo insured depository institution applicants should be treated similarly to mandatory de novo thrift institutions, which do not have to satisfy any specific Bank membership eligibility requirements since they are required by law to be Bank members.

The Finance Board believes there is merit in these arguments. Accordingly, proposed § 933.14(a)(1) extends the streamlined application processing currently applicable to newly-chartered insured depository institutions that have not yet commenced operations to newly-chartered insured depository institutions that have commenced operations. Such applicants would be deemed to meet the duly organized, inspection and regulation, financial condition, and character of management eligibility requirements. In order to be considered newly-chartered and subject to the streamlined application processing procedures of § 933.14(a)(1), applicants would have to have been chartered within three years prior to the date the Bank receives the application for membership. Three years is consistent with the time period for de novo treatment applied by other financial institution regulators. See, *e.g.*, 12 CFR 543.3(a) (OTS).

The Finance Board specifically requests comment on the arguments for or against this proposal.

*F. Recent Merger or Acquisition Applicants—Section 933.15*

Sections 933.9 and 933.10 of the current Membership Regulation require applicants to show satisfaction of the ''makes long-term home mortgage loans'' and ''10 percent residential mortgage loans'' requirements, respectively, based on the applicant's most recent regulatory financial report. See *id*. §§ 933.9, 933.10. An applicant

that recently has merged with or acquired another institution prior to applying for Bank membership must show satisfaction of these eligibility requirements based on the most recent regulatory financial report filed by the consolidated entity. See *id*. However, a newly consolidated entity may not be able to show compliance with these requirements as it may be several months before the next quarterly regulatory financial report is due to be filed with the appropriate regulator.

One Bank has suggested that in order to allow the applicant to be approved for membership immediately, the applicant should be allowed to provide the most recent regulatory financial report filed prior to the merger or acquisition by each of the institutions that entered into the merger or acquisition. The Bank then would consolidate the relevant data from both reports for purposes of determining compliance with §§ 933.9 and 933.10. The Finance Board believes this suggestion has merit, provided that in the case of showing satisfaction of the 10 percent residential mortgage loans requirement, the Bank obtains a certification from the applicant that there has been no material decrease in the ratio of consolidated residential mortgage loans to consolidated total assets derived from the reports since the reports were filed with the appropriate regulator. These proposed requirements are set forth in proposed new §§ 933.15 (a) and (b).

### III. Regulatory Flexibility Act

The proposed rule implements statutory requirements binding on all Banks and on all applicants for Bank membership, regardless of their size. The Finance Board is not at liberty to make adjustments to those requirements to accommodate small entities. The proposed rule does not impose any additional regulatory requirements that will have a disproportionate impact on small entities. Therefore, in accordance with section 605(b) of the Regulatory Flexibility Act, see 5 U.S.C. 605(b), the Finance Board hereby certifies that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

### IV. Paperwork Reduction Act

The current information collection has been approved by the Office of Management and Budget (OMB) and assigned OMB control number 3069–0004. The Finance Board has submitted to the OMB an analysis of the proposed changes to the collection of information contained in §§ 933.15 (a) and (b) of the proposed rule, described more fully in part II. of the **SUPPLEMENTARY INFORMATION.** The Banks and, where appropriate, the Finance Board, will use the proposed changes to the information collection to determine whether a recent merger or acquisition applicant meets certain membership eligibility requirements. See 12 U.S.C. 1424(a)(1)(C), (a)(2)(A); 12 CFR 933.9, 933.10. Only applicants meeting such requirements may become Bank members. See *id*.; *id*. Responses are required to obtain or retain a benefit. See 12 U.S.C. 1424. The Finance Board and the Banks will maintain the confidentiality of information obtained from respondents pursuant to the proposed changes to the collection of information as required by applicable statute, regulation, and agency policy. Books or records relating to this proposed collection of information must be retained as provided in the regulation.

Likely respondents and/or recordkeepers will be the Finance Board, Banks, and financial institutions that have recently undergone a merger or acquisition and are eligible to become Bank members under the Act, see *id*. section 1424(a)(1), including any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, or insured depository institution. Potential respondents are not required to respond to the proposed changes to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by the OMB. See 44 U.S.C. 3512(a).

The proposed changes to the information collection will not impose any additional costs on the Finance Board or the Banks. The estimated annual reporting and recordkeeping hour burden on respondents is:

a. Number of respondents—15.

b. Total annual responses—15; Percentage of these responses collected electronically—0%.

c. Total annual hours requested—60.

d. Current OMB inventory—59,152.

e. Difference—(59,092).

The estimated annual reporting and recordkeeping cost burden on respondents is:

a. Total annualized capital/startup costs—$0.

b. Total annual costs (O&M)—$0.

c. Total annualized cost requested—$1,800.

d. Current OMB inventory—$1,684,000.

e. Difference—($1,682,200).

Comments concerning the accuracy of the burden estimates and suggestions for reducing the burden may be submitted to the Finance Board in writing at the address listed above.

The Finance Board has submitted the proposed collection of information to the OMB for review in accordance with the Paperwork Reduction Act of 1995. See *id*. section 3501 *et seq*. Comments regarding the proposed changes to the collection of information may be submitted in writing to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Federal Housing Finance Board, Washington, D.C. 20503, by April 20, 1998.

### List of Subjects in 12 CFR Part 933

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby proposes to amend title 12, chapter IX, part 933, Code of Federal Regulations, as follows:

## PART 933—MEMBERS OF THE BANKS

1. The authority citation for part 933 continues to read as follows:

**Authority:** 12 U.S.C. 1422, 1422a, 1422b, 1423, 1424, 1426, 1430, 1442.

2. Part 933 is amended by removing the term ''primary regulator or appropriate state regulator'' wherever it appears and adding the term ''appropriate regulator'' in its place in the following locations:

a. § 933.1(l);
b. § 933.1(z);
c. § 933.2(c)(2);
d. § 933.11(a)(3);
e. § 933.11(a)(4);
f. § 933.11(b)(1);
g. § 933.12(a);
h. § 933.17(e)(1) introductory text;
i. § 933.17(e)(1)(i);
j. § 933.17(e)(2)(i); and
k. § 933.17(e)(3)(i).

#### § 933.11 [Amended]

3. Section 933.11(b)(3)(i) introductory text is amended by removing the term ''primary regulatory or appropriate state regulator'' and adding the term ''appropriate regulator'' in its place.

#### §§ 933.11 and 933.17 [Amended]

4. Sections 933.11(a)(4) and 933.17(e)(1)(i) are amended by removing the phrase '', whichever is applicable,'' wherever it appears.

5. Part 933 is amended by removing the term ''primary regulator'' wherever it appears and adding the term ''appropriate regulator'' in its place in the following locations:

a. § 933.1(aa);
b. § 933.9;
c. § 933.10;
d. § 933.11(a)(1);
e. § 933.11(b)(2);
f. § 933.11(b)(3)(i) introductory text;
g. § 933.16; and
h. § 933.17(f)(1).

6. Section 933.1 is amended by revising paragraphs (u), (x), and (y), and adding paragraph (ee) to read as follows:

**§ 933.1 Definitions.**

* * * * *

(u) *Nonperforming loans and leases* means the sum of the following, reported on a regulatory financial report: Loans and leases that have been past due for 90 days (60 days in the case of credit union applicants) or longer but are still accruing; loans and leases on a nonaccrual basis; and restructured loans and leases (not already reported as nonperforming).

* * * * *

(x) *Other real estate owned* means all other real estate owned (*i.e.*, foreclosed and repossessed real estate), reported on a regulatory financial report, and does not include direct and indirect investments in real estate ventures.

(y) *Appropriate regulator* means a regulatory entity listed in § 933.8, as applicable.

* * * * *

(ee) *Consolidation* includes a consolidation, a merger, or a purchase of all of the assets and assumption of all of the liabilities of an entity by another entity.

7. Section 933.3 is amended by revising the fourth and fifth sentences of paragraph (c) to read as follows:

**§ 933.3 Decision on application.**

* * * * *

(c) * * * The Bank shall notify an applicant in writing when its application is deemed by the Bank to be complete. The Bank also shall notify an applicant in writing if the 60-day clock is stopped, and when the clock is resumed. * * *

* * * * *

8. Section 933.4 is amended by adding paragraph (d) to read as follows:

**§ 933.4 Automatic membership.**

* * * * *

(d) *Automatic membership for certain consolidations.* If a member institution and nonmember institution are consolidated and the consolidated institution will operate under the charter of the nonmember institution, on the effective date of the consolidation, the consolidated institution automatically shall become a member of the Bank of which the disappearing institution was a member immediately prior to the effective date of the consolidation, provided that:

(1) 90 percent or more of the total assets of the consolidated institution are derived from the assets of the disappearing member institution; and

(2) The consolidated institution provides written notice to such Bank that it desires to be a member of the Bank.

9. Section 933.11 is amended by revising paragraphs (b)(3)(i)(B) and (b)(3)(i)(C) to read as follows:

**§ 933.11 Financial condition requirement for applicants other than insurance companies.**

* * * * *

(b) * * *

(3) * * *

(i) * * *

(B) *Nonperforming assets.* The applicant's nonperforming loans and leases plus other real estate owned, did not exceed 10 percent of its total loans and leases plus other real estate owned, in the most recent calendar quarter; and

(C) *Allowance for loan and lease losses.* The applicant's ratio of its allowance for loan and lease losses plus the allocated transfer risk reserve to nonperforming loans and leases was 60 percent or greater during 4 of the 6 most recent calendar quarters.

* * * * *

10. Section 933.14 is amended by removing the heading for paragraph (a), revising paragraph (a)(1), and removing and reserving paragraph (b), to read as follows:

**§ 933.14 De novo insured depository institution applicants.**

(a)(1) *Duly organized, subject to inspection and regulation, financial condition and character of management requirements.* An insured depository institution applicant that is chartered within three years prior to the date the Bank receives the applicant's application for membership in the Bank, is deemed to meet the requirements of §§ 933.7, 933.8, 933.11 and 933.12.

* * * * *

11. Section 933.15 is amended by redesignating paragraphs (a) and (b) as paragraphs (c) and (d), respectively, further redesignating newly designated paragraphs (c)(i) and (c)(ii) as paragraphs (c)(1) and (c)(2), respectively, revising ''primary regulator'' to read ''appropriate regulator'' in newly designated paragraphs (c)(1) and (c)(2), and adding new paragraphs (a) and (b), to read as follows:

**§ 933.15 Recent merger or acquisition applicants.**

* * * * *

(a) *Makes long-term home mortgage loans requirement—Regulatory financial reports.* For purposes of § 933.9, an applicant that, as a result of a merger or acquisition preceding the date the Bank receives its application for membership, has not yet filed a regulatory financial report for the combined entity with its appropriate regulator, shall provide the most recent regulatory financial report filed with the appropriate regulator prior to the merger or acquisition by each of the institutions that entered into the merger or acquisition, and the Bank shall consolidate the long-term home mortgage loans data in such reports for purposes of determining the applicant's compliance with § 933.9.

(b) *10 percent requirement for insured depository institution applicants—Regulatory financial reports.* For purposes of § 933.10, an applicant that, as a result of a merger or acquisition preceding the date the Bank receives its application for membership, has not yet filed a regulatory financial report for the combined entity with its appropriate regulator, shall provide the most recent regulatory financial report filed with the appropriate regulator prior to the merger or acquisition by each of the institutions that entered into the merger or acquisition, and the Bank shall consolidate the residential mortgage loans and total assets data in such reports for purposes of determining the applicant's compliance with § 933.10, provided the Bank obtains a certification from the applicant that there has been no material decrease in the ratio of consolidated residential mortgage loans to consolidated total assets derived from such reports since the reports were filed with the appropriate regulator.

* * * * *

12. Section 933.25 is amended by revising paragraph (a) to read as follows:

**§ 933.25 Consolidations involving nonmembers.**

(a) *Termination of membership.* Except as provided in § 933.4(d), if a member is consolidated into an institution that is not a member, its membership in the Bank terminates upon cancellation of its charter.

* * * * *

Dated: February 12, 1998.

By the Board of Directors of the Federal Housing Finance Board.

**Bruce A. Morrison,**

*Chairman.*

[FR Doc. 98–4069 Filed 2–18–98; 8:45 am]

BILLING CODE 6725–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–NM–133–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that currently requires an inspection of reworked aileron/elevator power control units (PCU's) and rudder PCU's to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, and replacement of the cylinder bores with bores that have been reworked using the oversize method or the steel sleeve method, if necessary. That AD was prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by that AD are intended to prevent a reduced rate of movement of the elevator, aileron, or rudder due to contamination of hydraulic fluid from chrome plating chips; such reduced rate of movement, if not corrected, could result in reduced controllability of the airplane. This action would expand the applicability of the existing AD to include airplanes equipped with certain rudder PCU's.

**DATES:** Comments must be received by April 6, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–133–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Don Kurle, Senior Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2798; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–133–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–133–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

On April 24, 1997, the FAA issued AD 97–09–14, amendment 39–10010 (62 FR 24008, May 2, 1997), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, to require an inspection of reworked aileron/elevator power control units (PCU's) and rudder PCU's to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, and replacement of the cylinder bores with bores that have been reworked using the oversize method or the steel sleeve method, if necessary. That action was prompted by a review of the design of the flight control systems on Model 737 series airplanes. The requirements of that AD are intended to prevent a reduced rate of movement of the elevator, aileron, or rudder due to contamination of hydraulic fluid from chrome plating chips; such reduced rate of movement, if not corrected, could result in reduced controllability of the airplane.

### Actions Since Issuance of Previous Rule

Since the issuance of that AD, the manufacturer has requested that the applicability of the existing AD be revised to include airplanes equipped with a rudder power control unit (PCU) having part number 65C37052–( ). The manufacturer points out that AD 94–01–07, amendment 39–8789 (59 FR 4570, February 1, 1994), currently requires certain modifications to the rudder PCU having part number 65–44861. This modification involves replacing the existing dual servo valve in the rudder PCU with an improved servo valve, which revises the existing part number of the rudder PCU to part number 65C37052–( ). However, AD 94–01–07 does not require an inspection of rudder PCU's to determine if reworked PCU manifold cylinder bores containing chrome plating are installed. Upon examination of the request, the FAA finds that Model 737–100, –200, –300, –400, and –500 series airplanes equipped with a rudder PCU having part number 65C37052–( ) are also subject to the addressed unsafe condition of AD 97–09–14 and has included this part number in the applicability of this proposed AD.

In addition, the manufacturer pointed out that it erroneously indicated in comments submitted to the notice of proposed rulemaking (NPRM) for AD 97–09–14 that only aileron/elevator actuators having a part number that includes ''ss'' could be eliminated from the applicability of that rule. (Based on these comments, the FAA revised the final rule of that AD accordingly.) However, the ''ss'' is in the serial number, not the part number. The manufacturer also pointed out that it indicated that the ''ss'' only applied to the aileron and elevator PCU's, when it also applies to the rudder PCU's. The FAA has specified this information in the applicability and paragraph (a) of the proposed AD.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 97–09–14 to continue to require an inspection of reworked aileron/elevator power control units (PCU's) and rudder PCU's to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, and replacement of the cylinder bores with bores that have been reworked using the oversize method or the steel sleeve method, if necessary. The proposed AD would expand the applicability of the existing AD to include airplanes equipped with rudder PCU's having part number 65C37052–( ). The proposed AD also revises the existing AD to exclude rudder PCU's (in addition to aileron/elevator actuators) having serial numbers that contain ''ss'' from the requirements of this proposed AD.

**Cost Impact**

There are approximately 2,675 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,091 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 97–09–14, and retained in this proposed AD, take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $327,300, or $300 per airplane.

The new actions that are proposed in this AD action would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $300 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

**Regulatory Impact**

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39–10010 (62 FR 24008, May 2, 1997), and by adding a new airworthiness directive (AD), to read as follows:

**Boeing:** Docket 97–NM–133–AD. Supersedes AD 97–09–14, Amendment 39–10010.

*Applicability:* Model 737–100, –200, –300, –400, and –500 series airplanes equipped with a rudder power control unit (PCU), having part number (P/N) 65–44861–( ) or P/N 65/C37052–( ) (except those having serial numbers that contain ''ss''), and a serial number less than 1252A; or an aileron or elevator PCU having P/N 65–44761–( ) (except those having serial numbers that contain an ''ss'') and a serial number less than 5360A; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent a reduced rate of movement of the elevator, aileron, or rudder, which, if not corrected, could result in reduced controllability of the airplane, accomplish the following:

**Restatement of Requirements of AD 97–09–14, Amendment 39–10010**

(a) Perform an inspection of reworked or overhauled aileron and elevator PCU's having P/N 65–44761–( ) (except those having serial numbers that contain an ''ss''), and a serial number less than 5360A; and rudder PCU's having P/N 65–44861–( ) and a serial number less than 1252A (except those having serial numbers that contain ''ss''); to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, in accordance with Boeing Service Letter 737–SL–27–30, dated April 1, 1985. Accomplish the inspection at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 5 years or 15,000 flight hours after June 6, 1997 (the effective date of AD 97–09–14, amendment 39–10010), whichever occurs first.

(2) At the next time the PCU is sent to a repair facility.

(b) If any reworked PCU mainfold cylinder bores containing chrome plating are found to be installed during the inspection required by paragraph (a) of this AD: Prior to further flight, replace the cylinder bores with bores that have been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737–SL–27–30, dated April 1, 1985. Accomplish the replacement in accordance with the service letter.

(c) As of June 6, 1997, no person shall install a reworked PCU manifold cylinder bore containing chrome plating on an aileron or elevator PCU having P/N 65–44761–( ), or on a rudder PCU having P/N 65–44861–( ), of any airplane unless the cylinder bore has been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737–SL–27–30, dated April 1, 1985.

**New Requirement of This AD**

(d) Perform an inspection of reworked or overhauled rudder PCU's having P/N 65C37052–( ) and a serial number less than 1252A (except those having serial numbers that contain ''ss''); to determine if reworked PCU manifold cylinder bores containing chrome plating are installed, in accordance with Boeing Service Letter 737–SL–27–30, dated April 1, 1985. Accomplish the inspection at the earlier of the times specified in paragraphs (d)(1) and (d)(2) of this AD.

(1) Within 5 years or 15,000 flight hours after the effective date of this AD, whichever occurs first.

(2) At the next time the PCU is sent to a repair facility.

(e) If any reworked PCU mainfold cylinder bores containing chrome plating are found to be installed during the inspection required by paragraph (d) of this AD: Prior to further flight, replace the cylinder bores with bores that have been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737–SL–27–30, dated April 1, 1985. Accomplish the replacement in accordance with the service letter.

(f) As of the effective date of this AD, no person shall install a reworked PCU manifold cylinder bore containing chrome plating on a rudder PCU having P/N 65C37052–( ), on any airplane unless the cylinder bore has been reworked using the oversize method or the steel sleeve method specified in Boeing Service Letter 737–SL–27–30, dated April 1, 1985.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 11, 1998.

**Gilbert L. Thompson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–4112 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–NM–251–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes. This proposal would require an inspection to determine if the latching lever pin of the speed brake passes an axial force check, and a visual inspection to determine if the staking of the latching lever pin is acceptable; and follow-on corrective action, if necessary. This proposal is prompted by reports that the speed brake handle jammed in the ground spoiler position. The actions specified by the proposed AD are intended to prevent the retraction of the spoilers and the full advancement of the left throttle during a go-around, as the result of a jammed speed brake handle pin.

**DATES:** Comments must be received by April 6, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 597–NM–251–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5336; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–251–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–251–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The FAA has received reports that the speed brake handle jammed in the ground spoiler position on McDonnell Douglas Model DC–9–80 series airplanes. These airplanes had accumulated as low as 547 total flight hours or 299 total flight cycles. Investigation revealed that the cause of such jamming was attributed to an oversize pin hole and improper staking of the pin hole, which caused migration of the pin. A jammed speed brake handle pin, if not corrected, could prevent the retraction of the spoilers and the full advancement of the left throttle during a go-around.

The subject part on certain McDonnell Douglas Model DC–9 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes is identical to that on the affected Model DC–9–80 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

### Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC–9–27–346, Revision 01, dated July 29, 1997. The service bulletin describes procedures for performing an inspection to determine if the latching lever pin of

the speed brake passes an axial force check, and a visual inspection to determine if the staking of the latching lever pin is acceptable; and follow-on corrective action, if necessary. (The follow-on corrective actions include repetitive inspections, replacement of the speed brake latching lever, and temporary repair of the latching lever pin.)

### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require an inspection to determine if the latching lever pin of the speed brake passes an axial force check, and a visual inspection to determine if the staking of the latching lever pin is acceptable; and follow-on corrective action, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

### Cost Impact

There are approximately 2,050 McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,250 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $375,000, or $300 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**McDonnell Douglas:** Docket 97–NM–251–AD.

*Applicability:* Model DC–9–10, –20, –30, –40, and –50, and DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC9–27–346, Revision 1, dated July 29, 1997; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent the retraction of the spoilers and the full advancement of the left throttle during a go-around, as the result of a jammed speed brake handle pin, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform an inspection to determine if the latching lever pin of the speed brake passes an axial force check, and a visual inspection to determine if the staking of the latching lever pin is ''acceptable'', in accordance with McDonnell Douglas DC9–27–346, Revision 01, dated July 29, 1997.

**Note 2:** The criteria for determining whether the staking is ''acceptable'' are defined in Figure 1 of the service bulletin.

(1) Condition 1. If the pin passes the axial force check and the staking is found to be acceptable, no further action is required by this AD.

(2) Condition 2. If the pin passes the axial force check and the staking is found to be unacceptable, accomplish the actions specified in Condition 2, Option 1, or Condition 2, Option 2 of the Accomplishment Instructions of the service bulletin. These actions shall be accomplished at the times specified in paragraph E. ''Compliance'' of the service bulletin. Accomplishment of the replacement of the speed brake latching lever constitutes terminating action for the repetitive inspection requirements of this AD.

(3) Condition 3. If the pin fails the axial force check and the staking is found to be unacceptable, accomplish the actions specified in Condition 3, Option 1, or Condition 3, Option 2 of the Accomplishment Instructions of the service bulletin. These actions shall be accomplished at the times specified in paragraph E. ''Compliance'' of the service bulletin. Accomplishment of the replacement of the speed brake latching lever constitutes terminating action for the repetitive inspection requirements of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 11, 1998.

**Gilbert L. Thompson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–4111 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–U

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 97–NM–303–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Aerospatiale Model ATR42–200, –300, and –320 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200, –300, and –320 series airplanes. This proposal would require an inspection to detect fatigue cracking of the windshield frame structure, and modification of the windshield frame structure. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the airplane resulting from fatigue cracking of the windshield frame structure.

**DATES:** Comments must be received by March 23, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–303–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–303–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–303–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR42–200, –300, and –320 series airplanes. The DGAC advises that it has received reports of fatigue cracking on in-service airplanes. The cracking began at the lower end of the center post of the windshield frame structure. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

### Explanation of Relevant Service Information

Aerospatiale has issued Service Bulletins ATR42–53–0093, Revision 1, and ATR42–53–0094, Revision 2, both dated February 19, 1996. These service bulletins describe procedures for an inspection to detect fatigue cracking of the windshield frame structure, and modification of the windshield frame structure. Accomplishment of the modification involves installation of new supports and nut plates. Accomplishment of these actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 95–126–061(B), dated June 21, 1995, in order to assure the continued airworthiness of these airplanes in France.

### FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

### Differences Between the Proposed Rule and the Service Information

Whereas Aerospatiale Service Bulletin ATR42–53–0094 requires that operators contact the manufacturer for repair instructions for any crack exceeding a specified length, this proposed AD would require that repair of such cracking be accomplished in accordance with a method approved by the FAA.

### Cost Impact

The FAA estimates that 106 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 19 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $120,840, or $1,140 per airplane.

It would take approximately 191 work hours per airplane to accomplish the proposed modification specified in

Aerospatiale Service Bulletin ATR42–53–0093, Revision 1, dated February 19, 1996, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be $11,460 per airplane.

It would take approximately 281 work hours per airplane to accomplish the proposed modification specified in Aerospatiale Service Bulletin ATR42–53–0094, Revision 2, dated February 19, 1996, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be $16,860 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

**Regulatory Impact**

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Aerospatiale:** Docket 97–NM–303–AD.

*Applicability:* Model ATR42–200, –300, and –320 series airplanes, on which Aerospatiale Modification 01392 has not been installed, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the airplane resulting from fatigue cracking of the windshield frame structure, accomplish the following:

(a) Prior to the accumulation of 24,000 total flight cycles, or within 60 days after the effective date of this AD, whichever occurs later: Inspect to detect cracking of the windshield frame structure in accordance with Operation Description (B—Inspection) of the Accomplishment Instructions of Aerospatiale Service Bulletin ATR42–53–0093, Revision 1, or ATR42–53–0094, Revision 2, both dated February 19, 1996.

(1) If the inspection reveals no crack, or reveals cracking that does not exceed the specifications listed in Figure 6, Sheet 1, of Service Bulletin ATR42–53–0093, Revision 1, dated February 19, 1996: Prior to further flight, modify the windshield frame structure in accordance with either service bulletin.

(2) If the inspection reveals any crack that exceeds the specifications in Figure 6, Sheet 1, of Service Bulletin ATR42–53–0093, Revision 1, dated February 19, 1996, but does not exceed the cut-out areas specified in Figure 7, Sheet 1, of Service Bulletin ATR42–53–0094, Revision 2, dated February 19, 1996: Prior to further flight, modify the windshield frame structure in accordance with Service Bulletin 42–53–0094, Revision 2, dated February 19, 1996.

(3) If the inspection reveals any crack that exceeds the cut-out areas specified in Figure 7, Sheet 1, of Service Bulletin ATR42–53–0094, Revision 2, dated February 19, 1996: Prior to further flight, modify the windshield frame structure in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

**Note 2:** Accomplishment of the modifications specified in ATR Service Bulletin ATR42–53–0093, Revision 1, or ATR42–53–0094, Revision 2, both dated February 19, 1996, is not equivalent to accomplishment of Aerospatiale Modification 01392. Therefore the ATR42 Time Limits Document inspection items with ''PRE MOD 1392'' effectivity are still applicable for airplanes modified by either of the previously described service bulletins.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Note 4:** The subject of this AD is addressed in French airworthiness directive 95–126–061(B), dated June 21, 1995.

Issued in Renton, Washington, on February 11, 1998.

**Gilbert L. Thompson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–4110 Filed 2–18–98; 8:45 am]

**BILLING CODE 4910–13–U**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 96–NM–163–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Transport Category Airplanes Equipped With Day-Ray Products, Inc., Fluorescent Light Ballasts

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to any transport

category airplane that is equipped with certain Day-Ray fluorescent light ballasts installed in the upper and/or lower cabin sidewall, that would have required a visual inspection to determine the type of fluorescent light ballasts installed in the cabin sidewall, and either the replacement of suspect ballasts or the installation of a protective cover over the ballast. That proposal was prompted by reports of smoke, fumes, and/or electrical fire emitting from the baggage bin of the aft passenger compartment due to the failure of the fluorescent light ballasts. This new action revises the proposed rule by removing the option to install a protective cover over the ballast. The actions specified by this new proposed AD are intended to prevent the potential for a fire in the passenger compartment resulting from failure of the fluorescent light ballast of the cabin sidewall.

**DATES:** Comments must be received by March 16, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–163–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** J. Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5345; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–163–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–163–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to any transport category airplane that is equipped with certain Day-Ray fluorescent light ballasts installed in the upper and/or lower cabin sidewall, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on October 7, 1996 (61 FR 52394). That NPRM would have required a visual inspection to determine the type of fluorescent light ballasts installed in the cabin sidewall, and either the replacement of suspect ballasts or the installation of a protective cover over the ballast. That NPRM was prompted by reports of smoke, fumes, and/or electrical fire emitting from the baggage bin of the aft passenger compartment due to the failure of the fluorescent light ballasts. That condition, if not corrected, could result in the potential for a fire in the passenger compartment resulting from failure of the fluorescent light ballast of the cabin sidewall.

### Actions Since Issuance of Previous Proposal

Since the issuance of that NPRM, the FAA has received a report of smoke and fire emitting from the overhead ceiling panel in the passenger cabin on a McDonnell Douglas Model DC–9–80 series airplane. Investigation revealed that a fluorescent light ballast failed and produced electrical arcing, which caused fire damage to the upper insulation blanket and outboard ceiling panel at station 1022. The fluorescent light ballast had been modified, as required by AD 96–11–13, amendment 39–9638 (61 FR 27251, May 31, 1996).

The modification specified in AD 96–11–13 includes installation of a protective aluminum cover that was designed to prevent the interior of the airplane from exposure to flame. However, the aluminum cover of the fluorescent light ballast involved in the incident had two holes burnt through it. The FAA has determined that installation of a protective cover over the light ballast [as required by paragraph (a)(2) of the originally proposed NPRM] does not adequately preclude smoke/fire in the passenger compartment. Therefore, the FAA has removed that requirement [paragraph (a)(2) of the originally proposed NPRM] from this supplemental NPRM. The FAA also has removed reference to the protective cover from paragraph (b) of this supplemental NPRM.

### Comments Received

Due consideration has been given to the comments received in response to the NPRM.

### Request To Revise Descriptive Language

One commenter requests that the fourth sentence of the first paragraph of the Discussion section of the NPRM be revised to read as follows: ''Investigation revealed that the design of certain fluorescent light ballast assemblies, as installed on the incident airplanes, allows moisture condensation to enter into the ballast case during altitude changes. The effects of such moisture subsequently contaminate the printed circuit card, which can result in a short circuit. This failure mode in the subject Day-Ray Products ballasts may result in the rupture of the ballast phenolic case and emit fire.'' The commenter states that immersion testing conducted by McDonnell Douglas on ballast designs of different manufacturers (in addition to Day-Ray Products) has demonstrated that a fluorescent light ballast, when subject to ingestion of moisture as a result of

changes in altitude, is susceptible to failure. The critical issue is whether the ballast case design will contain the failure and allow for a fail-safe mode.

The commenter also requests that the first sentence of the second paragraph of the Discussion section of the NPRM be deleted, and that the phrase ''suspect light ballasts'' in the beginning of the second sentence be changed to ''subject light ballasts.'' The commenter states that the subject ballasts are the same as those addressed in AD 96–11–13.

In addition, the commenter requests that the phrase ''installing improved ballasts'' be removed from the first sentence of the first paragraph of the Explanation of Relevant Service Information section of the NPRM, and that the phrase ''or installing protective covers that are manufactured by Day-Ray Products'' be added to the end of that sentence.

Further, the commenter requests that the phrase ''any Day-Ray Products light ballast'' be revised to ''the subject light ballast'' in the first sentence in paragraph one of the Explanation of Requirements of Proposed Rule section of the preamble of the NPRM.

The FAA acknowledges that the commenter's suggested wording is more accurate. However, since the Discussion, Explanation of Relevant Service Information, and Explanation of Requirements of Proposed Rule sections are not restated in this supplemental NPRM, no change to the supplemental NPRM is necessary.

**Request To Revise Cost Estimate**

One commenter notes that the work hours for the proposed inspection and replacement presented in the Cost Impact section of the preamble of the NPRM is too low. The commenter states that the proposed inspection will require 25 work hours per airplane, and that the replacement will require 50 work hours per airplane. The FAA concurs that the number of work hours required is higher than previously approximated; the economic impact information, below, has been revised to specify the higher amount.

**Request To Delete Installation of Protective Cover Requirement**

One commenter requests that the FAA remove the option of installing a protective cover over the light ballast, as required by paragraph (a)(2) of the originally proposed NPRM. The commenter contends that the protective cover will cause the ballast to overheat and shorten life expectancy of the ballast. The FAA concurs. As discussed previously, the FAA has removed paragraph (a)(2) of the originally proposed NPRM from this supplemental NPRM.

**Conclusion**

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

**Cost Impact**

There are approximately 2,500 transport category airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,800 airplanes of U.S. registry would be affected by this proposed AD.

To accomplish the proposed inspection, it would take approximately 25 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $1,500 per airplane.

To replace the light ballasts would require approximately 50 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would average approximately $8,550 per airplane, which represents a cost of $150 per ballast and an average of 57 ballasts per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $11,550 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

**Regulatory Impact**

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Transport Category Airplanes:** Docket 96–NM–163–AD.

*Applicability:* Airplanes equipped with Day-Ray Products, Inc., cabin sidewall fluorescent light ballasts having part numbers listed in Table 1 of this AD; including, but not limited to, McDonnell Douglas Model DC–9, DC–9–80, MD–88, DC–10, and C–9 (military) series airplanes, and Boeing Model 707, 727, and 737 series airplanes; certificated in any category.

TABLE 1.—FLUORESCENT LIGHT BALLASTS SUBJECT TO THIS AD

| Name | Part No. |
|---|---|
| Day Ray ..... | 69–10, 69–10–1, 69–68, 69–68–1, 69–69, 69–69–1, 70–94, 70–94–1, 83–12, 83–12–1 |

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent the potential for a fire in the passenger compartment resulting from failure of the fluorescent light ballast of the cabin sidewall, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform a one-time visual inspection to determine the type of fluorescent light ballasts installed in the upper and lower cabin sidewall. If any ballast installed has a part number that is listed in Table 1 of this AD, prior to further flight, remove the Day-Ray light ballast and replace it with a light ballast manufactured by Bruce Industries, in accordance with the applicable service bulletin(s) listed in Table 2 of this AD.

TABLE 2.—SERVICE BULLETINS CONTAINING INSTRUCTIONS FOR ACCOMPLISHING THE REQUIREMENTS OF THIS AD

| Service bulletin No. and date | Affected airplanes |
|---|---|
| McDonnell Douglas, DC–9 Service Bulletin DC9–33–103, May 30, 1996. | Model DC–9–30, –40, and –50 series airplanes listed in effectivity of service bulletin. |
| McDonnell Douglas, MD–80 Service Bulletin MD80–33A107, Revision R01, August 30, 1996. | Model DC–9–80 series and Model MD–88 airplanes listed in effectivity of service bulletin. |
| McDonnell Douglas, DC–10 Service Bulletin DC10–33–073, June 18, 1996. | Model DC–10–10, –15, –30, and –40 series and KC–10A airplanes listed in effectivity of service bulletin. |
| Heath Tecna, Alert Service Bulletin ESCI–33–A2, Revision 1, July 24, 1996. | McDonnell Douglas Model DC–9–80 (MD–80) series airplanes retrofitted with Heath Tecna Contemporary Deep Rack Interior (CDRI) and Heath Tecna Extended Special Concept Interior (ESCI or ESCI III). |
| Heath Tecna, Alert Service Bulletin MarkI–33–A2, Revision 1, July 24, 1996. | McDonnell Douglas Model DC–8 series airplanes retrofitted with Heath Tecna Mark I interior. |
| Heath Tecna, Alert Service Bulletin MarkI–33–A3, Revision 1, July 24, 1996. | Boeing Model 707 series airplanes retrofitted with the Heath Tecna Mark I interior. |
| Heath Tecna, Alert Service Bulletin MarkI–33–A4, Revision 1, July 24, 1996. | Boeing Model 727 series airplanes retrofitted with the Heath Tecna Mark I interior. |
| Heath Tecna, Alert Service Bulletin MarkI–33–A5, Revision 1, July 24, 1996. | Boeing Model 737 series airplanes retrofitted with the Heath Tecna Mark I interior. |
| Heath Tecna, Service Bulletin Spmk–33–A1, Revision 1, July 24, 1996. | Boeing Model 727 series airplanes retrofitted with the Heath Tecna Spacemaker II or Spacemaker IIa interior. |
| Heath Tecna, Service Bulletin Spmk–33–A2, Revision 1, July 24, 1996. | Boeing Model 737 series airplanes retrofitted with the Heath Tecna Spacemaker II or Spacemaker IIa interior. |

(b) As of the effective date of this AD, no person shall install in the upper or lower cabin sidewall of any airplane a Day-Ray fluorescent light ballast having a part number listed in Table 1 of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 11, 1998.

**Gilbert L. Thompson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–4109 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## 23 CFR Part 668

**[FHWA Docket No. FHWA 97–3105]**

**RIN 2125–AE27**

## Emergency Relief (ER) Program—$500,000 Disaster Eligibility Threshold

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Advance notice of proposed rulemaking (ANPRM); request for comments.

**SUMMARY:** The FHWA is initiating this rulemaking to evaluate the need to revise the FHWA's regulation (23 CFR 668.105(j)) that now provides for a $500,000 threshold to distinguish between heavy maintenance or routine emergency repair and serious damage. This threshold is used as one of the criteria to qualify a disaster under the FHWA's Emergency Relief (ER) program for repair of Federal-aid highways. The FHWA is publishing this ANPRM to generate discussion and comments on the appropriateness of the current threshold value as well as any additional options/concepts regarding establishment of a disaster eligibility threshold. Once information from this ANPRM has been reviewed, if appropriate, specific proposals for revision of the threshold will be published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM).

**DATES:** Comments must be received on or before April 20, 1998.

**ADDRESSES:** Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL 401, 400 Seventh Street, SW., Washington, D.C. 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

**FOR FURTHER INFORMATION CONTACT:** Mohan P. Pillay, Office of Engineering, 202–366–4655, or Wilbert Baccus, Office of the Chief Counsel, 202–366–0780, FHWA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m, e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### 1. Purpose of This Rulemaking

The regulations governing the ER program for repair of Federal-aid highways (23 CFR 668, subpart A) were revised in 1987 to establish, for the first time, dollar guidelines for consideration of whether a disaster would be

categorized as ''serious '' from the perspective of 23 U.S.C. 125. The requirement pertaining to dollar guidelines is contained in 23 CFR 668.105(j). It states: ''ER program funding is only to be used to repair highways which have been seriously damaged and is not intended to fund heavy maintenance or routine emergency repair activities which should be normally funded as contingency items in the State and local road programs. An application for ER funds in the range of $500,000 or less must be accompanied by a showing as to why the damage repair involved is considered to be beyond the scope of heavy maintenance or routine emergency repair. As a general rule, widespread nominal road damages in this range would not be considered to be of a significant nature justifying approval by the FHWA Administrator for ER funding.''

For the purposes of this ANPRM, the term disaster referred to throughout this document means a natural disaster or catastrophic failure. As indicated in the regulation, the ER program is not intended to fund heavy maintenance or routine emergency repair activities, which should be normally funded as contingency items in the State and local road programs. In essence, the regulation says that if a disaster event does not require more than $500,000 in ER funding to repair seriously damaged highways, it falls under the category of heavy maintenance and, therefore, normally does not qualify under the FHWA ER program for funding. In exceptional circumstances, such as in the case of Territories and in States with limited highway funding resources, a disaster with damage in the range of $500,000 or less may be considered eligible for ER funding.

The FHWA is considering modification of the $500,000 threshold for the following reasons:

(1) The current $500,000 threshold, established 10 years ago, needs to be routinely reviewed for appropriateness.

(2) Several FHWA field offices have indicated that the $500,000 threshold is too low, considering the overall highway program size in some States.

(3) The number of disasters per year has increased considerably in the recent past, and as a result, there is a higher demand for ER funds, thus placing more financial burden on the already strapped ER program.

The FHWA believes that setting up a higher threshold may eliminate funding less ''serious'' disasters which would currently be eligible for ER funding. For example, 47 disasters were funded in FY 1996. Nearly 20 percent of the funded disasters had an initial estimate under $1,000,000. Elevating the disaster threshold to $1,000,000, thus, could have eliminated nearly 20 percent of the funded disasters in FY 1996 from emergency relief funding, representing nearly $5.2 million in damage. This $5.2 million, in turn, would have been available for disasters which individually resulted in more than $1,000,000 in damage.

The FHWA is initiating this rulemaking process to generate discussion and proposals for revising the current regulation pertaining to the $500,000 threshold.

**2. Rulemaking Process**

This document is first in a series of actions to address the issue of the $500,000 threshold established to distinguish heavy maintenance from ''serious'' damage. Based upon the comments to this ANPRM, the FHWA will consider formulating specific proposals and publishing a NPRM. The NPRM would also provide a comment period for additional public response to specific proposals. The FHWA now anticipates that a final rule may be developed and published in 1998. The following options are provided with the intent to generate discussion and comments which may help in formulating specific proposals for the NPRM. Additional options and concepts are welcome.

Option 1—Continue to have a single threshold applied to all States, but increase the threshold.

Under this option, the existing threshold would be increased to a higher value—for example, $1,000,000. The advantages are:

(1) The program would better serve as intended—to fund unusually heavy expenses of repairing ''serious'' damage from natural disasters or catastrophic failures, and to eliminate funding low-cost disasters;

(2) The overall cost to the ER program would be reduced, as those disasters with an initial estimate under $1,000,000 normally would not qualify for funding; and

(3) The administrative costs at all levels would be reduced as time involved in disaster surveys, documentation, and processing would be reduced.

A disadvantage is that a higher threshold would place a greater funding burden on the States with smaller highway programs. They may be adversely affected as resources may not be readily available to respond to disasters under the minimum $1,000,000 disaster eligibility threshold. Additionally, the application of the same threshold value to all States would be administratively simple; however, it does not equitably reflect the financial impact of a disaster based on the size of a State's program.

Option 2—Formulate more than one minimum disaster eligibility threshold, using a tiered approach based on the size of a State's highway program.

Under this option the States would be grouped into tiers based on the size of their Federal-aid program—i.e, Federal-aid apportionments received in the prior fiscal year. A minimum disaster eligibility threshold would be formulated for each tier beginning from a base threshold. This concept is illustrated using a three tier approach in the following example:

Tier 1 would be those States that received Federal-aid highway apportionments under $100 million for the previous fiscal year. Tier 1 States would be subject to a minimum threshold of $500,000;

Tier 2 would be those States that received Federal-aid highway apportionments of at least $100 million and not exceeding $500 million for the previous fiscal year. Tier 2 States would use a minimum threshold of $1,000,000; and

Tier 3 would be those States which received Federal-aid highway apportionments over $500 million for the previous fiscal year. Tier 3 States would use a minimum threshold of $2,000,000.

Based on the FY 1997 Federal-aid highway apportionments, the number of States including the District of Columbia and Puerto Rico, in each tier in the above illustration would be as follows: Tier 1 States—7; Tier 2 States—33; and Tier 3 States—12. Other scenarios, as appropriate may be developed.

The advantages are:

(1) This approach would not place a disproportionate burden on States with smaller highway programs; rather it treats States more or less in an equitable fashion;

(2) The program would better serve as intended—to fund unusually heavy expenses of repairing ''serious'' damage from natural disasters or catastrophic failures. New higher thresholds on disaster eligibility would eliminate funding low-cost disasters for States with larger programs;

(3) The overall cost to the ER program would be reduced as certain disasters might not meet the new disaster eligibility thresholds and therefore might not qualify for funding; and

(4) The administrative costs would be reduced at all levels, as time involved

in disaster surveys, documentation, and processing would be reduced.

The disadvantages are:

(1) States with larger highway programs could lose some ER funding as the higher disaster eligibility threshold in these States might eliminate some disasters which would have qualified for funding under the current threshold; and

(2) The FHWA would be required to track States with different disaster eligibility thresholds, resulting in more review time and paperwork.

Commenters are invited to present their views on the options discussed above. In addition, the FHWA welcomes other suggestions concerning the current dollar threshold and appropriate methods to update this threshold.

*Rulemaking Analyses and Notices*

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined preliminarily that any action taken regarding the disaster eligibility threshold will not be a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of any action taken in this rulemaking will be minimal. Any changes are not anticipated to adversely affect, in a material way, any sector of the economy. In addition, any changes are not likely to interfere with any action taken or planned by another agency or materially alter the budgetary impact of any entitlement, grants, user fees, or loan programs.

The FHWA emphasizes, however, that this document is published to generate discussion and comments which may be used in formulating specific proposals for the revision of a section of the current regulation dealing with disaster eligibility determinations for ER funding. It is not anticipated that these changes will affect the total Federal funding available under the ER program. Consequently, a full regulatory evaluation is not required. In any event, we strongly encourage and will actively consider comments on this matter, as well as other issues relating to the projected impact of actions contemplated in this ANPRM.

*Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA will evaluate the effects of any action proposed on small entities. This ANPRM will only generate comments and discussions on one of the disaster eligibility criteria used for providing emergency relief assistance to States in accordance with the existing laws, regulations and guidance. Thus, it would be premature to assess the economic impact of any action that might be contemplated. Because the States are not included in the definition of ''small entity'' set forth in 5 U.S.C. 601, we do not anticipate that any adjustment to the disaster eligibility threshold that might be considered would have a substantial economic impact on small entities within the meaning of the Regulatory Flexibility Act. We encourage commenters to evaluate any options addressed here with regard to their potential for impact, however, and to formulate their comments accordingly.

*Executive Order 12612 (Federalism Assessment)*

Any action that might be proposed in subsequent stages of this proceeding will be analyzed in accordance with the principles and criteria contained in Executive Order 12612. Given the nature of the issues involved in this proceeding, the FHWA anticipates that any action contemplated will not have sufficient federalism implications to warrant the preparation of a federalism assessment. Nor does the FHWA anticipate that any action taken would preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. We encourage commenters to consider these issues, however, as well as matters concerning any costs or burdens that might be imposed on the States as a result of actions considered here.

*Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

*Paperwork Reduction Act*

Any action that might be contemplated in subsequent phases of this proceeding is not likely to involve a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3500, or information collection requirements not already approved for the ER program. The FHWA, however, will evaluate any actions that might be considered in accordance with the terms of the Paperwork Reduction Act.

*National Environmental Policy Act*

The agency also will analyze any action that might be proposed for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to assess whether there would be any effect on the quality of the environment.

*Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 23 CFR Part 668**

Emergency relief program, Grant programs-transportation, Highways and roads.

**Authority:** 23 U.S.C. 315; 23 U.S.C. 101; 23 U.S.C. 120(e); 23 U.S.C. 125; 49 CFR 1.48(6).

Issued on: February 11, 1998.

**Kenneth R. Wykle,**

*Administrator, Federal Highway Administration.*

[FR Doc. 98–4172 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–22–P

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## 27 CFR Parts 178 and 179

**[Notice No. 857]**

**RIN: 1512–AB67**

## Implementation of Public Law 103–159, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act (93F–057P)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to implement the provisions of Public Law 103–159, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. These proposed regulations implement the law by requiring, with some exceptions, a licensed firearms importer, manufacturer, or dealer to contact the

national instant criminal background check system (NICS) before transferring any firearm to an unlicensed individual. NICS will advise the licensee whether the system contains any information that the prospective purchaser is prohibited by law from possessing or receiving a firearm.

**DATES:** Written comments must be received on or before May 20, 1998.

**ADDRESSES:** Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; ATTN: Notice No. 857.

**FOR FURTHER INFORMATION CONTACT:** James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

**SUPPLEMENTARY INFORMATION:**

## Background

On November 30, 1993, Public Law 103–159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Title I of Pub. L. 103–159, the Brady Handgun Violence Prevention Act (the ''Brady law''), imposed as an interim measure a waiting period of 5 days before a licensed importer, manufacturer, or dealer may sell, deliver, or transfer a handgun to an unlicensed individual. The waiting period applies only in States without an acceptable alternate system of conducting background checks on handgun purchasers. The interim provisions of the Brady law, 18 U.S.C. 922(s), became effective on February 28, 1994, and cease to apply on November 30, 1998.

*Permanent Provisions of the Brady Law*

The permanent provisions of the Brady law provide for the establishment of a national instant criminal background check system (''NICS'') that a firearms licensee must contact before transferring any firearm to unlicensed individuals. The law requires that the permanent system be established not later than November 30, 1998. While the interim provisions apply only to handguns, the permanent provisions of the Brady law will apply to all firearms. Furthermore, while there is no five-day waiting period under the permanent provisions, the system may take up to three business days to notify the licensee whether receipt of a firearm by the prospective purchaser would be in violation of law.

*National Instant Criminal Background Check System*

The Brady law requires that the Attorney General establish a permanent national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information on whether receipt of a firearm by a prospective transferee would violate Federal or State law. The law requires that the permanent system be established not later than November 30, 1998.

Upon establishment of the system, the Attorney General is required to notify each firearms licensee and the chief law enforcement officer of each State of the existence and purpose of NICS and the means to be used to contact NICS. Beginning on the date that is 30 days after the Attorney General notifies firearms licensees that NICS is established, the permanent provisions of Brady, 18 U.S.C. 922(t), become effective.

*Statutory Requirements*

Section 922(t) generally makes it unlawful for any licensed firearms importer, manufacturer, or dealer to sell, deliver, or transfer a firearm to an unlicensed individual (transferee), unless—

1. Before the completion of the transfer, the licensee contacts the national instant background check system;

2. The system provides the licensee with a unique identification number signifying that transfer of the firearm would not be in violation of law OR 3 business days (meaning a day on which State offices are open) have elapsed from the date the licensee contacted the system and the system has not notified the licensee that receipt of the firearm by the transferee would be in violation of law; and

3. The licensee verifies the identity of the transferee by examining a valid identification document containing a photograph of the transferee.

*Penalties for Noncompliance*

Section 922(t) provides that a firearms licensee who transfers a firearm and knowingly fails to comply with the requirements of the law, in a case where compliance would have revealed that the transfer was unlawful, may be subject to license suspension or revocation and fined not more than $5,000.

*Proposed Regulations*

ATF is proposing regulations to implement the requirements placed on firearms licensees by section 922(t). The Department of Justice will be promulgating regulations establishing the methods of operation for NICS, including policies and procedures for ensuring the privacy and security of the system, and appeal procedures for individuals who are determined by NICS to be ineligible to purchase a firearm. Accordingly, these issues are not addressed in the ATF regulations.

*Time of NICS Check*

The Brady law generally provides that a licensed importer, manufacturer or dealer may not transfer a firearm to an unlicensed individual unless, before the completion of the transfer, the licensee contacts NICS. It is clear that the law contemplates that the licensee should contact NICS immediately prior to the transfer of a firearm. ATF recognizes that there may be circumstances in which there is an unavoidable delay between the NICS check and the transfer of the firearm. For example, many States have waiting periods for the sale of certain types of firearms. Nonetheless, ATF believes that the regulations should impose a time frame beyond which a licensee can no longer rely upon a ''stale'' NICS check in transferring a firearm.

In accordance with the above, ATF is proposing to amend § 178.124(c) to require licensees to contact NICS after the transferee has executed the firearms transaction record, Form 4473. ATF is also proposing to amend § 178.102(c) to provide that a licensee may not rely upon a NICS check that was conducted more than 30 calendar days prior to the transfer of the firearm. This will ensure that licensees are not relying upon ''stale'' NICS checks. Finally, the proposed regulations clarify that a separate NICS check must be conducted for each separate transaction. While an individual may purchase several firearms in one transaction, a licensee must initiate a separate NICS check for each separate transaction. Examples are provided in section 178.102(c) of the proposed regulations.

Section 922(t)(2) provides that if NICS notifies the licensee that the information available to the system does not indicate that the prospective purchaser's receipt or possession of the firearm would violate the law, the system will assign a unique identification number to the transfer and provide the licensee with the number. The Department of Justice has advised ATF that NICS will also provide licensees with a unique identification number in the event that the transfer is denied or delayed by NICS. Accordingly, the proposed regulations require that licensees record any responses received from the system,

in addition to the unique identification number (if any) provided by the system, on the firearms transaction record (ATF Form 4473). The proposed regulations also require that licensees maintain a copy of each Form 4473 for which a NICS transaction number has been received, regardless of whether the transfer of the firearm was completed. This will enable ATF to determine compliance with the law by licensees and purchasers.

*Exceptions to NICS*

The statute provides the following exceptions to the national instant background check system:

1. The transferee presents to the licensee a permit which was issued not more than 5 years earlier by the State in which the transfer is to take place and which allows the transferee to possess or acquire a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that available information does not indicate that possession of a firearm by the transferee would be in violation of the law;

2. Purchases of firearms which are subject to the National Firearms Act and which have been approved for transfer under 27 CFR Part 179 (Machine Guns, Destructive Devices, and Certain Other Firearms); or

3. Purchases of firearms for which the Secretary has certified that compliance with NICS is impracticable because the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025 (i.e., 25 officers per 10,000 square miles), the premises of the licensee are remote in relation to the chief law enforcement officer of the area, and there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

Proposed regulations which implement these provisions of the law are set forth in §§ 178.102(d), 178.131, and 178.150.

It should be noted that State ''instant check'' and ''point of sale check'' systems will not qualify as alternatives to the NICS check required by the permanent provisions of the Brady law. Therefore, NICS checks must be conducted on firearms purchasers in those States.

With respect to purchases of firearms which are subject to the National Firearms Act, ATF is proposing to amend § 179.86 to provide that in addition to any other records checks that may be conducted to determine whether the transfer, receipt, or possession of a firearm would place the transferee in violation of law, the Director must contact NICS.

*Permits*

The Brady law provides that a licensee is not required to initiate a NICS check where the purchaser presents a permit that allows the purchaser to ''possess or acquire a firearm.'' The proposed regulations clarify that this exception includes permits to carry concealed weapons as well as permits specifically authorizing the purchase of a firearm.

For purposes of the permanent provisions of the Brady law, it is irrelevant whether the permit covers the type of firearm that is being purchased. For example, a licensee need not initiate a NICS check where an individual who wishes to purchase a rifle presents a handgun permit, as long as that permit meets all the requirements of the Brady law. The critical issue is not the type of firearm for which the permit was issued, but whether the State has conducted a background check on that individual to ensure that the individual is not prohibited from possessing a firearm. Of course, all such transactions must still comply with State law.

*NICS Checks in Conjunction With the Issuance of Permits*

The law provides that the permit must have been issued not more than 5 years earlier by the State in which the transfer is to take place. Furthermore, the permit is a valid alternative under the Brady law only if the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law.

In construing the language of the statute, it is ATF's position that as of November 30, 1998, ''the information available to'' State officials will include the NICS database. Accordingly, the proposed regulations provide that permits issued on or after November 30, 1998, will be valid alternatives under the permanent provisions of the Brady law only if the State officials conduct a NICS check on all permit applicants. It should be noted that the NICS database will provide a more extensive background check of the purchaser than other record systems containing only criminal records. NICS will include records from the Defense Department concerning dishonorable discharges, records from the State Department regarding individuals who have renounced United States citizenship, and other information not available in criminal records.

*Permits Issued to Persons Prohibited Under Federal Law*

The proposed regulations provide that a permit would be a valid alternative only if the issuing State verifies that possession of a firearm by the permittee would not be in violation of Federal, State, or local law. There may be States that would issue a permit to individuals (such as persons who have renounced United States citizenship or persons convicted of a misdemeanor crime of domestic violence) even though these individuals are subject to Federal firearms disabilities. If a State does not disqualify all individuals prohibited under Federal law, the permits issued by that State would not be accepted as alternatives under the permanent provisions of the Brady law. Prior to the effective date of the permanent provisions of the Brady law, ATF will notify licensees in each State whether or not permits issued by that State will suffice as alternatives under the Brady law.

*Pawn Transactions*

The permanent provisions of the Brady law apply to any transfer of a firearm by a licensed importer, manufacturer, or dealer to a nonlicensee. This includes the redemption of a pawned firearm. It should be noted that the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, amended § 922(s) of the GCA to exempt transactions involving the return of a handgun to the person from whom it was received. Thus, the redemption of a pawned handgun by the person from whom it was received is not subject to the waiting period and background check requirements imposed by the interim provisions of the Brady law. However, no such exemption appears in § 922(t). Thus, the proposed regulations would apply the permanent provisions of the Brady law to pawn transactions.

*Firearms Transaction Record (Form 4473)*

In general, the regulations provide that prior to the transfer of a firearm to a prospective purchaser, the buyer must complete, sign, and date a firearms transaction record, Form 4473. The form requests certain information, including the transferee's name, sex, height, weight, race, residence address, date of birth, and place of birth. ATF is proposing to amend the regulations to solicit additional optional information about the purchaser, such as the

transferee's social security number and alien registration number (if applicable), to facilitate the transfer of a firearm.

ATF believes this additional information will help minimize the misidentification of firearms purchasers as felons or other prohibited persons whose receipt and possession would violate the law. For example, by providing a social security number, the transferee might avoid confusion with a prohibited buyer who has the same name and date of birth as the transferee. This would clearly help expedite the transfer. ATF would note that ATF Form 5300.35, Statement of Intent to Obtain a Handgun (Brady form), currently requests the purchaser's social security number and alien registration number as optional information. Because the NICS check will be based upon information from the Form 4473, the proposed regulations would not require firearms purchasers to fill out a separate Brady form.

*Executive Order 12866*

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Therefore, a Regulatory Assessment is not required.

*Regulatory Flexibility Act*

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Accordingly, a regulatory flexibility analysis is not required.

*Paperwork Reduction Act*

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury/Bureau of Alcohol, Tobacco and Firearms (ATF), Office of Information and Regulatory Affairs, Washington, D.C., 20503, with copies to the Chief, Document Services Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of ATF, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced; and

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collections of information in this proposed regulation are in §§ 178.102, 178.124(c), 178.125(e), 178.129(b), 178.131, and 178.150. This information is required to implement the provisions of Public Law 103–159, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. The collections of information are required to ensure compliance with the law. The likely respondents and/or recordkeepers are individuals and businesses.

*Estimated number of respondents:* 10,273,851.

*Estimated total annual reporting and/or recordkeeping burden:* 199,357 hours.

*Estimated average annual burden per respondent and/or recordkeeper:* 1.16 minutes.

Section 178.102 requires, with some exceptions, licensees to contact NICS before transferring any firearm to an unlicensed individual. The estimated total annual reporting and/or recordkeeping burden associated with this requirement is 112,978 hours. Section 178.124(c) requires licensees to record on Form 4473 the date the licensee contacts NICS and any identification number provided by NICS. The licensee must also verify the identity of the person acquiring the firearm by examining an identification document presented by the transferee. Form 4473 will include certain optional information about the purchaser, such as the person's social security number and alien registration number. The estimated total annual reporting and/or recordkeeping burden associated with this requirement is 53,549 hours. Section 178.125(e) requires licensees to include in their records of disposition the identification number provided by NICS. The estimated total annual reporting and/or recordkeeping burden associated with this requirement is 18,444 hours. Section 178.129(b) requires licensees to retain a completed Form 4473 for a period of not less than 5 years where the transfer of a firearm is not made. The estimated total annual recordkeeping burden associated with this requirement is 553 hours. Section 178.131 requires licensees to maintain certain records for firearms transactions not subject to a NICS check. The estimated annual recordkeeping burden associated with this requirement is 13,833 hours. Section 178.150 provides for an alternative to NICS in certain geographical locations. Licensees must submit a written application to the Director containing certain information. The same requirement currently applies to the waiting period provision of the Brady law for transfers of handguns. Since this requirement was established in 1994, no licensee has qualified for an exception from the provisions of Brady based on geographical location. As such, ATF does not believe that there is any reporting and/or recordkeeping burden associated with the requirements of § 178.150 with regard to NICS.

Certain collections of information contained in § 178.129(b), previously approved under control numbers 1512–0520, 1512–0006, and 1512–0524, are merely being redesignated as § 178.129(c) in this notice of proposed rulemaking. Similarly, the collections of information in § 178.129(c), (d), and (e), previously approved under control numbers 1512–0129 and 1512–0526, are being redesignated as § 178.129(d), (e), and (f) in the proposed regulation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

*Public Participation*

ATF requests comments on the proposed regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to

determine, in light of all circumstances, whether a public hearing is necessary.

*Disclosure*

Copies of this notice and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information: The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

**List of Subjects in 27 CFR Parts 178 and 179**

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

*Authority and Issuance*

Accordingly, 27 CFR Parts 178 and 179 are amended as follows:

## PART 178—COMMERCE IN FIREARMS AND AMMUNITION

1. The authority citation for 27 CFR Part 178 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

2. Section 178.11 is amended by adding a definition for ''NICS'' to read as follows:

**§ 178.11 Meaning of terms.**

* * * * *

*NICS.* The National Instant Criminal Background Check System established by the Attorney General pursuant to 18 U.S.C. 922(t).

* * * * *

3. Section 178.96 is amended by revising the first sentence in paragraph (b), and by revising paragraph (c) to read as follows:

**§ 178.96 Out-of-State and mail order sales.**

* * * * *

(b) A licensed importer, licensed manufacturer, or licensed dealer may sell a firearm that is not subject to the provisions of § 178.102(a) to a nonlicensee who does not appear in person at the licensee's business premises if the nonlicensee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee furnishes to the licensee the firearms transaction record, Form 4473, required by § 178.124. * * *

(c)(1) A licensed importer, licensed manufacturer, or licensed dealer may sell or deliver a rifle or shotgun, and a licensed collector may sell or deliver a rifle or shotgun that is a curio or relic, to a nonlicensed resident of a State other than the State in which the licensee's place of business is located if—

(i) The purchaser meets with the licensee in person at the licensee's premises to accomplish the transfer, sale, and delivery of the rifle or shotgun;

(ii) The licensed importer, licensed manufacturer, or licensed dealer complies with the provisions of § 178.102;

(iii) The purchaser furnishes to the licensed importer, licensed manufacturer, or licensed dealer the firearms transaction record, Form 4473, required by § 178.124; and

(iv) The sale, delivery, and receipt of the rifle or shotgun fully comply with the legal conditions of sale in both such States.

(2) For purposes of paragraph (c) of this section, any licensed manufacturer, licensed importer, or licensed dealer is presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both such States.

4. Section 178.97 is revised to read as follows:

**§ 178.97 Loan or rental of firearms.**

(a) A licensee may lend or rent a firearm to any person for temporary use off the premises of the licensee for lawful sporting purposes: *Provided,* That the delivery of the firearm to such person is not prohibited by § 178.99(b) or § 178.99(c), the licensee complies with the requirements of § 178.102, and the licensee records such loan or rental in the records required to be kept by him under Subpart H of this part.

(b) A club, association, or similar organization temporarily furnishing firearms (whether by loan, rental, or otherwise) to participants in a skeet, trap, target, or similar shooting activity for use at the time and place such activity is held does not, unattended by other circumstances, cause such club, association, or similar organization to be engaged in the business of a dealer in firearms or as engaging in firearms transactions. Therefore, the licensing and recordkeeping requirements contained in this part pertaining to firearms transactions would not apply to this temporary furnishing of firearms for use on premises on which such an activity is conducted.

5. Section 178.102 is revised to read as follows:

**§ 178.102 Sales or deliveries of firearms on and after November 30, 1998.**

(a) *Background check.* Except as provided in paragraph (d) of this section, a licensed importer, licensed manufacturer, or licensed dealer shall not sell, deliver, or transfer a firearm to any other person who is not licensed under this part unless—

(1) Before the completion of the transfer, the licensee has contacted NICS;

(2)(i) NICS informs the licensee that it has no information that receipt of the firearm by the transferee would be in violation of Federal or State law and provides the licensee with a unique identification number; or

(ii) Three business days (meaning days on which State offices are open) have elapsed from the date the licensee contacted NICS and NICS has not notified the licensee that receipt of the firearm by the transferee would be in violation of law; and

(3) The licensee verifies the identity of the transferee by examining the identification document presented in accordance with the provisions of § 178.124(c).

(b) *Unique identification number.* In any transaction for which a licensee receives a unique identification number from NICS, such number shall be recorded on a firearms transaction record, Form 4473, which shall be retained in the records of the licensee in accordance with the provisions of § 178.129. This applies regardless of whether the transaction is approved or denied by NICS, and regardless of whether the firearm is actually transferred.

(c) *Time limitation on NICS checks.* A NICS check conducted in accordance with paragraph (a) of this section may be relied upon by the licensee only for use in a single transaction, and for a period not to exceed 30 calendar days. If the transaction is not completed within the 30-day period, the licensee shall initiate a new NICS check prior to completion of the transfer.

*Example 1.* A purchaser completes the Form 4473 on December 15, 1998, and a NICS check is initiated by the licensee on that date. The licensee is informed by NICS that the information available to the system does not indicate that receipt of the firearm by the transferee would be in violation of law, and a unique identification number is provided. However, the State imposes a 7-day waiting period on all firearms transactions, and the purchaser does not return to pick up the firearm until January 22, 1999. The licensee must conduct another NICS check before transferring the firearm to the purchaser.

*Example 2.* A purchaser completes the Form 4473 on January 25, 1999, and arranges

for the purchase of a single firearm. A NICS check is initiated by the licensee on that date. The licensee is informed by NICS that the information available to the system does not indicate that receipt of the firearm by the transferee would be in violation of law, and a unique identification number is provided. The State imposes a 7-day waiting period on all firearms transactions, and the purchaser returns to pick up the firearm on February 15, 1999. Before the licensee completes Section B of the Form 4473, the purchaser decides to purchase an additional firearm. The transfer of these two firearms is considered a single transaction; accordingly, the licensee may add the second firearm to the Form 4473, and transfer that firearm without conducting another NICS check.

*Example 3.* A purchaser completes a Form 4473 on February 15, 1999. The licensee receives a unique identification number from NICS on that date, Section B of the Form 4473 is completed by the licensee, and the firearm is transferred. On February 20, 1999, the purchaser returns to the licensee's premises and wishes to purchase a second firearm. The purchase of the second firearm is a separate transaction; thus, a new NICS check must be initiated by the licensee.

(d) *Exceptions to NICS check.* The provisions of paragraph (a) of this section shall not apply if—

(1) The transferee has presented to the licensee a permit or license that—

(i) Allows the transferee to possess, acquire, or carry a firearm;

(ii) Was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(iii) The law of the State provides that such a permit or license is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by the transferee would be in violation of Federal, State, or local law: *Provided,* That on and after November 30, 1998, the information available to such official includes the NICS;

(2) The firearm is subject to the provisions of the National Firearms Act and has been approved for transfer under 27 CFR Part 179; or

(3) On application of the licensee, in accordance with the provisions of § 178.150, the Director has certified that compliance with paragraph (a)(1) of this section is impracticable.

(e) The document referred to in paragraph (d)(1) of this section (or a copy thereof) shall be retained or the required information from the document shall be recorded on the firearms transaction record in accordance with the provisions of § 178.131.

6. Section 178.124 is amended by revising paragraph (c), by removing ''paragraph (c)(1)(ii)'' in paragraphs (d) and (e) and adding in its place ''paragraph (c)(3)(iii)'', and by revising the first sentence in paragraph (f) to read as follows:

**§ 178.124 Firearms transaction record.**

* * * * *

(c)(1) Prior to making an over-the-counter transfer of a firearm to a nonlicensee who is a resident of the State in which the licensee's business premises is located, the licensed importer, licensed manufacturer, or licensed dealer so transferring the firearm shall obtain a Form 4473 from the transferee showing the transferee's name, sex, residence address (including county or similar political subdivision), date and place of birth; height, weight and race of the transferee; whether the transferee is a citizen of the United States; the transferee's State of residence; and certification by the transferee that the transferee is not prohibited by the Act from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce.

(2) In order to facilitate the transfer of a firearm and enable NICS to verify the identity of the person acquiring the firearm, ATF Form 4473 also requests certain optional information. This information includes the transferee's social security number and alien registration number (if applicable). Such information may help avoid the possibility of the transferee being misidentified as a felon or other prohibited person.

(3) The licensee shall identify the firearm to be transferred by listing on the Form 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm. After the transferee has executed the Form 4473, but before transferring the firearm described on the Form 4473, the licensee:

(i) Shall comply with the requirements of § 178.102 and record on the form the date on which the licensee contacted the NICS, as well as any response provided by the system, including any identification number provided by the system;

(ii) Shall verify the identity of the transferee by examining the identification document (as defined in § 178.11) presented, and shall note on the Form 4473 the type of identification used;

(iii) Shall, in the case of a transferee who is an alien legally in the United States, cause the transferee to present documentation establishing that the transferee is a resident of the State (as defined in § 178.11) in which the licensee's business premises is located, and shall note on the form the documentation used. Examples of acceptable documentation include utility bills or a lease agreement which show that the transferee has resided in the State continuously for at least 90 days prior to the transfer of the firearm; and

(iv) Shall sign and date the form if the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm.

* * * * *

(f) Form 4473 shall be submitted, in duplicate, to a licensed importer, licensed manufacturer, or licensed dealer by a transferee who is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction, who is not subject to the provisions of § 178.102(a), and who is a resident of the State in which the licensee's business premises are located. * * *

* * * * *

7. Section 178.124a is amended by removing the period at the end of the introductory text of paragraph (e) and adding in its place a colon.

8. Section 178.125(e) is amended by revising the text following the eighth sentence to read as follows:

**§ 178.125 Record of receipt and disposition.**

* * * * *

(e) *Firearms receipt and disposition by dealers.* * * * The record shall show the date of the sale or other disposition of each firearm, the name and address of the person to whom the firearm is transferred, or the name and license number of the person to whom transferred if such person is a licensee, or the firearms transaction record, Form 4473, serial number if the licensed dealer transferring the firearm serially numbers the Forms 4473 and files them numerically, and the identification number (if any) provided by the NICS. The format required for the record of receipt and disposition of firearms is as follows:

FIREARMS ACQUISITION AND DISPOSITION RECORD

| Description of firearm | | | | | Receipt | | Disposition | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Manufacturer and/or Importer | Model | Serial No. | Type | Caliber or gauge | Date | Name and address or name and license No. | Date | Name | Address or license No. if licensee, or Form 4473 Serial No. if forms 4473 filed numerically | Identification No. provided by NICS (if any) |
| | | | | | | | | | | |

* * * * *

9. Section 178.129 is amended by revising paragraph (b), by redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), by adding new paragraph (c), and by revising the parenthetical text at the end of the section to read as follows:

**§ 178.129 Record retention.**

* * * * *

(b) *Firearms transaction record.* Licensees shall retain each Form 4473 and Form 4473(LV) for a period of not less than 20 years after the date of sale or disposition. Where a licensee has received a transaction number from NICS for a proposed firearms transaction, but the sale, delivery, or transfer of the firearm is not made, the licensee shall record the transaction number on the Form 4473, and retain the Form 4473 for a period of not less than 5 years after the date of the NICS inquiry. Forms 4473 shall be retained in the licensee's records as provided in § 178.124(b): *Provided,* That Forms 4473 with respect to which a sale, delivery or transfer did not take place shall be separately retained in alphabetical (by name of transferee) or chronological (by date of transferee's certification) order.

(c) *Statement of intent to obtain a handgun, reports of multiple sales or other disposition of pistols and revolvers, and reports of theft or loss of firearms.* Licensees shall retain each Form 5300.35 (Statement of Intent to Obtain a Handgun(s)) for a period of not less than 5 years after notice of the intent to obtain the handgun was forwarded to the chief law enforcement officer, as defined in § 178.150(c). Licensees shall retain each copy of Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for a period of not less than 5 years after the date of sale or other disposition. Licensees shall retain each copy of Form 3310.11 (Federal Firearms Licensee Theft/Loss Report) for a period of not less than 5 years after the date the theft or loss was reported to ATF.

* * * * *

(Paragraph (c) approved by the Office of Management and Budget under control numbers 1512–0520, 1512–0006, and 1512–0524; Paragraph (f) approved by the Office of Management and Budget under control number 1512–0526; all other recordkeeping approved by the Office of Management and Budget under control number 1512–0129)

**§ 178.130 [Removed]**

10. Section 178.130 is removed.

11. Section 178.131 is revised to read as follows:

**§ 178.131 Firearms transactions not subject to a NICS check.**

(a)(1) A licensed importer, licensed manufacturer, or licensed dealer whose sale, delivery, or transfer of a firearm is made pursuant to the alternative provisions of § 178.102(d) and is not subject to the NICS check prescribed by § 178.102(a) shall maintain the records required by paragraph (a) of this section.

(2) If the transfer is pursuant to a permit or license in accordance with § 178.102(d)(1), the licensee shall either retain a copy of the purchaser's permit or license and attach it to the firearms transaction record, Form 4473, or record on the firearms transaction record, Form 4473, any identifying number, the date of issuance, and the expiration date (if provided) from the permit or license.

(3) If the transfer is pursuant to a certification by ATF in accordance with §§ 178.102(d)(3) and 178.150, the licensee shall maintain the certification as part of the records required to be kept under this subpart and for the period prescribed for the retention of Form 5300.35 in § 178.129(c).

(b) The requirements of this section shall be in addition to any other recordkeeping requirements contained in this part.

12. Section 178.150 is revised to read as follows:

**§ 178.150 Alternative to NICS in certain geographical locations.**

(a) The provisions of § 178.102(d)(3) shall be applicable when the Director has certified that compliance with the provisions of § 178.102(a)(1) is impracticable because:

(1) The ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(2) The business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(3) There is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(b) A licensee who desires to obtain a certification under this section shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain information sufficient for the Director to make such certification. Such information shall include statistical data, official reports, or other statements of government agencies pertaining to the ratio of law enforcement officers to the number of square miles of land area of a State and statements of government agencies and private utility companies regarding the absence of telecommunications facilities in the geographical area in which the licensee's business premises are located.

(c) For purposes of this section and § 178.129(c), the ''chief law enforcement officer'' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

## PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

13. The authority citation for 27 CFR Part 179 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

14. Section 179.86 is amended by adding a sentence at the end of the section to read as follows:

**§ 179.86 Action on application.**

* * * In addition to any other records checks that may be conducted to determine whether the transfer, receipt, or possession of a firearm would place the transferee in violation of law, the Director shall contact the National

Instant Criminal Background Check System.

Signed: December 31, 1997.

**John W. Magaw,**

*Director.*

Approved: January 16, 1998.

**John P. Simpson,**

*Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).*

[FR Doc. 98–4215 Filed 2–18–98; 8:45 am]

**BILLING CODE 4810–31–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 86

**[FRL–5967–8]**

### Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Modification of Federal On-Board Diagnostic Regulations for Light-Duty Vehicles and Light-Duty Trucks; Notice of Document Availability

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; document availability.

**SUMMARY:** On May 28, 1997, the U.S. Environmental Protection Agency (EPA or Agency) published a Notice of Proposed Rulemaking (see 62 FR 28932) proposing changes to the federal on-board diagnostics program. One of the proposed changes to the federal OBD program was to indefinitely allow manufacturers to comply with EPA's regulations by demonstrating compliance with the exception of the CARB OBDII anti-tampering provisions and certain evaporative emission monitoring requirements. In that NPRM, the Agency also proposed to update the version of the California OBDII regulations which with manufacturers must comply to a more recently revised version. The NPRM noted that the current version of CARB's regulations were contained in Mail-Out #96–34. However, CARB Mail-Out #96–34 was intended primarily for public comment purposes. In the May 28, 1997 NPRM, the Agency went on to state that, after CARB finalized their regulatory revisions being developed via Mail-Out #96–34, the Agency would, in its final rule, allow compliance with that revised final version provided that relevant portions of that version were acceptable for federal OBD compliance demonstration. The Agency received comments during the public comment period following publication of the NPRM that this approach of incorporating CARB OBDII regulations would not allow EPA enough time to analyze the final revised version of the CARB OBDII changes for appropriateness and applicability to the federal OBD program. The Agency is in the process of developing the final rulemaking. CARB recently finalized its OBDII changes in CARB Mail-Out #97–24. The Agency has analyzed CARB Mail-Out #97–24 and has determined that it is appropriate for federal OBD compliance and its use for federal OBD presents no regulatory process concerns. This analysis, as well as CARB Mail-Out #97–24 is available in EPA Air Docket A–96–32 (see **ADDRESSES**).

**DATES:** The Docket will remain open until March 23, 1998 for any parties wishing to submit comment on CARB Mail-Out #97–24.

**ADDRESSES:** Materials relevant to this rulemaking are contained in Docket No. A–96–32. The docket is located at The Air Docket, 401 M. Street, SW., Washington, DC 20460, and may be viewed in room M1500 between 8:00 a.m. and 5:30 p.m., Monday through Friday. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material.

Comments must be submitted to Holly Pugliese, Vehicle Programs and Compliance Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, or Internet e-mail at ''pugliese.holly@epamail.epa.gov.''

**FOR FURTHER INFORMATION CONTACT:** Holly Pugliese, Telephone 313–668–4288.

Dated: February 9, 1998.

**Richard D. Wilson,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 98–4010 Filed 2–18–98; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 444

**[FRL–5968–5]**

**RIN 2040–AD03**

### Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Industrial Waste Combustor Subcategory of the Waste Combustors Point Source Category; Correction, Announcement of Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Correction, Announcement of Meeting.

**SUMMARY:** In proposed rule 63 FR 6391, in the **Federal Register** issue of February 6, 1998, make the following correction for the date of the workshop and public hearing. EPA will conduct a workshop and public hearing on the pretreatment standards of the rule on April 1, 1998, from 9:00 a.m. to 10:30 a.m.

The Office of Science and Technology within EPA's Office of Water is announcing the workshop and public hearing to elicit comments on the proposed pretreatment standards for the Industrial Waste Combustor Subcategory of the Waste Combustors Point Source Category (63 FR 6391, February 6, 1998). The meeting will be held in Washington, D.C. on April 1, 1998 at the EPA Headquarters Auditorium. Persons wishing to present formal comments at the public hearing should have a written copy for submittal. All testimony presented or submitted in writing to the designated EPA representative at the public hearing will be considered formal comments on the proposal. In addition, written comments regarding the Industrial Waste Combustors proposal will be accepted until May 7, 1998. Both formal comments from the public hearing and written comments received by EPA will be addressed in the Agency's response to comments and will be part of the public docket for the final rule.

**DATES:** EPA will conduct a workshop and public hearing for the Industrial Waste Combustors Subcategory of the Waste Combustors Point Source Category on April 1, 1998. The Industrial Waste Combustors meeting will be held from 9:00 a.m. to 10:30 a.m.

**ADDRESSES:** The Industrial Waste Combustors meeting will be held in the EPA Headquarters Auditorium, Waterside Mall, 401 M St. SW, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this notice can be directed to Samantha Hopkins at (202) 260–7149 or by facsimile at (202) 260–7185.

**SUPPLEMENTARY INFORMATION:** The workshop will provide a brief overview of the proposed rule including the scope of the proposed regulations, the technology basis for developing the limitations, and a discussion of the costs and environmental benefits of the rules. The public hearing will provide those attending with the opportunity to comment on the proposed pretreatment standards. The Agency will continue to accept written comments until May 7, 1998. To review the proposed rules and for more information on the submission of comments please refer to the February 6, 1998 **Federal Register**.

Dated: February 11, 1998.

**Tudor T. Davies,**

*Director, Office of Science and Technology.*

[FR Doc. 98–4182 Filed 2–18–98; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 445

**[FRL–5968–6]**

**RIN 2040–AC23**

### Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Landfills Point Source Category; Correction, Announcement of Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Correction, Announcement of Meeting.

**SUMMARY:** In proposed rule 63 FR 6425 in the **Federal Register** issue of February 6, 1998, make the following correction for the date of the workshop and public hearing. EPA will conduct a workshop and public hearing on the pretreatment standards of the rule on April 1, 1998, from 10:30 a.m. to 12:30 p.m.

The Office of Science and Technology within EPA's Office of Water is announcing the workshop and public hearing to elicit comments on the proposed pretreatment standards for the Landfills Point Source Category (63 FR 6425, February 6, 1998). The meeting will be held in Washington, D.C. on April 1, 1998 at the EPA Headquarters Auditorium. Persons wishing to present formal comments at the public hearing should have a written copy for submittal. All testimony presented or submitted in writing to the designated EPA representative at the public hearing will be considered formal comments on the proposal. In addition, written comments regarding the Landfills proposal will be accepted until May 7, 1998. Both formal comments from the public hearing and written comments received by EPA will be addressed in the Agency's response to comments and will be part of the public docket for the final rule.

**DATES:** EPA will conduct a workshop and public hearing for the Landfills Point Source Category on April 1, 1998. The Landfills meeting will be held from 10:30 a.m. to 12:30 p.m.

**ADDRESSES:** The Landfills meeting will be held in the EPA Headquarters Auditorium, Waterside Mall, 401 M St. SW, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this notice can be directed to Mr. Michael Ebner at (202) 260–5397 or by facsimile at (202) 260–7185.

**SUPPLEMENTARY INFORMATION:** The workshop will provide a brief overview of the proposed rule including the scope of the proposed regulations, the technology basis for developing the limitations, and a discussion of the economic and environmental impacts projected as a result of the proposed rule. The public hearing will provide those attending with the opportunity to comment on the proposed pretreatment standards. The Agency will continue to accept written comments until May 7, 1998. To review the proposed rule and for more information on the submission of comments please refer to the February 6, 1998 **Federal Register**.

Dated: February 11, 1998.

**Tudor T. Davies,**

*Director, Office of Science and Technology.*

[FR Doc. 98–4181 Filed 2–18–98; 8:45 am]

**BILLING CODE 6560–50–P**

## LEGAL SERVICES CORPORATION

### 45 CFR Part 1644

### Disclosure of Case Information

**AGENCY:** Legal Services Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule is a new rule intended to implement a provision in the Legal Services Corporation's (LSC or Corporation) FY 1998 appropriations act which requires basic field recipients to disclose certain information to the public and to the Corporation regarding cases their attorneys file in court. The case information that is provided to the Corporation will be subject to disclosure under the Freedom of Information Act.

**DATES:** Comments should be received on or before March 23, 1998.

**ADDRESSES:** Comments should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First St. NE., 11th Floor, Washington, DC 20002–4250.

**FOR FURTHER INFORMATION CONTACT:** Office of the General Counsel, (202–336–8817.

**SUPPLEMENTARY INFORMATION:** This proposed new rule is intended to implement Section 505 of the Corporation's FY 1998 appropriations act, which requires basic field recipients to disclose certain information to the public and to the Corporation regarding cases filed in court by any attorney employed by a recipient. See Public Law 105–119, 111 Stat. 2440. The Corporation issued a program letter on December 9, 1997, providing recipients with guidance on compliance with Section 505 until such time as a rule could be promulgated by the Corporation. On February 6, 1998, the Corporation's Operations and Regulations Committee (Committee) of the Corporation's Board of Directors (Board) met to consider a draft proposed rule to implement the case disclosure requirement. After making some changes to the draft rule, the Committee adopted this proposed rule for publication for public comment. A section-by-section analysis follows.

**Section-by-Section Analysis**

*Section 1644.1 Purpose*

The purpose section states that the rule is intended to ensure that recipients disclose to the public and to the Corporation information required by the case disclosure requirement on cases filed in court by their attorneys.

*Section 1644.2 Definitions*

The case disclosure provision requires that recipients disclose certain information, including the cause of action, for each case filed in court by a recipient attorney. To clarify this requirement, this proposed rule includes three definitions.

First, paragraph (a) of § 1644.2 defines to disclose the cause of action. To disclose the cause of action means to provide a sufficient description of a particular case to indicate the principal nature of the case. Examples would include: ''breach of warranty,'' ''bankruptcy,'' ''divorce,'' ''domestic violence,'' ''petition to quiet title,'' ''action to recover property,'' and ''employment discrimination action.''

Paragraph (b) clarifies the type of recipient subject to the case disclosure requirement. Recipient is defined as a grantee which receives funds under Section 1006(a)(1)(A) of the LSC Act, 42 U.S.C. 2996e(a)(1)(A), that is, a basic field recipient which provides direct legal assistance to the poor. Section 505 does not specifically apply to subrecipients. However, as a matter of policy, this proposed rule extends the case disclosure requirement of Section 505 to subrecipients that provide direct legal representation to eligible clients.

Paragraph (c) clarifies that the term attorney, as used in this part, means any attorney who is employed by a recipient. This would include attorneys employed as regular or contract employees, regardless of whether such attorneys are employed full-time or part-time. This definition is not intended to mean that cases filed by part-time attorneys outside of their employment with the recipient are subject to this rule's case disclosure requirement. They are not. However, all cases filed by a recipient's part-time attorneys under their employment with the recipient must be reported.

Finally, the definition of attorney does not include private attorneys providing legal assistance under a recipient's private attorney involvement (PAI) program, because such attorneys are not employed by a recipient. Another section in this rule expressly provides that the case disclosure requirement does not apply to cases filed under a recipient's PAI program.

*Section 1644.3 Case Disclosure Requirement*

This section sets out the basic requirements of the case disclosure provision. Paragraph (a) lists the information a recipient must disclose about applicable cases. First, the name and full address of each party to a case must be disclosed unless one of two statutory protections apply. The term ''full address'' means an address sufficient to contact a party to the case, such as a street address or post office box number with the city, state and zip code.

This provision is not intended to require recipients to provide a name and address of a party when they have no knowledge of and no access to such information. This could occur, for example, when the information is not a matter of public record, the party is not a client of the recipient, and the private attorney for that party refuses to provide the information. However, the recipient must be able to document its inability to provide the information and satisfy the Corporation that a reasonable effort was made to obtain the information.

A name or address need not be disclosed if (1) The name or address is protected by an order or rule of court or by State or Federal law, or (2) the recipient's attorney reasonably believes that revealing the information would put the client of the recipient at risk of physical harm. These protections are consistent with the express legislative intent of the purpose and scope of the requirement. The legislative history indicates that Congress intends that the disclosure requirement apply to ''the most basic information'' about a case which is already public and on file in court records, but does not apply to information, for example, that would risk harm to a person or that is protected by the attorney-client privilege. See 143 Cong. Rec. H 8004–8008 (Sept. 26, 1997).

The case disclosure requirement also requires disclosure of the cause of action for any applicable case. This requirement is intended to provide the public and the Corporation with information regarding the nature or types of cases filed in court by legal services attorneys, so that there is a public awareness of how legal services funds are being expended.

Finally, the case disclosure provision requires disclosure of the name and full address of the court where a case is filed and the case number assigned to the case. ''Full address'' means an address sufficient to contact the court.

Paragraph (b) of this section requires recipients to provide their case information to the Corporation in semiannual reports, as specified by the Corporation. The Corporation will provide guidance to recipients on how and when to provide the information. This paragraph also clarifies that reports submitted to the Corporation are subject to disclosure under the Freedom of Information Act.

Paragraph (c) provides that a recipient must make the case information described in paragraph (a) available in written form to any person who requests such information. This rule does not mandate how recipients must maintain the case information for disclosure to the public, except that it must be provided in written form. Recipients may choose to maintain an up-to-date central file containing the case information for each case filed after January 1, 1998. Alternatively, recipients may choose to compile such information centrally only at the time of receipt of a public request or in preparation of the semiannual report to the Corporation. In either event, the case information must be made available within a reasonable time after a request is made by any member of the public. Recipients may charge reasonable mailing and document copying fees.

*Section 1644.4 Applicability*

This section clarifies the scope of the case disclosure requirement. First, it states that only actions filed on behalf of plaintiffs and petitioners must be disclosed. This is consistent with the language of Section 505, which requires case information about ''each case filed by its [a recipient's] attorneys.'' This language clearly applies to ''each case'' filed, not to individual filings in a particular case. Thus, the case disclosure requirement does not require updates on the status of cases for which information has already been filed. In addition, the language of Section 505 refers to cases filed by a recipient attorney. The general understanding of the meaning of filing a case is that it refers to the initiation of a case, such as the filing of a complaint by a plaintiff. Accordingly, submissions of pleadings such as an answer or a cross claim on behalf of a defendant in a case that was not initiated by a recipient are not covered by the case disclosure requirement.

Although the case disclosure requirement normally applies only to the original filing of a case, subparagraph (a)(2) of this section applies the requirement when there is an appeal filed in court by a recipient and the recipient was not the attorney of record in the case below. Likewise, subparagraph (a)(3) applies the requirement to any judicial appeal of an administrative action when the appeal is first filed in court.

Finally, paragraph (b) clarifies that this rule does not apply to private attorney involvement (PAI) programs under 45 CFR Part 1614. PAI attorneys are not attorneys employed by recipients; rather, they are generally private attorneys with their own private practices who have been recruited by recipients to provide some pro bono or reduced fee legal assistance to eligible clients. Besides, it has long been the policy of the Corporation not to place discretionary burdens on PAI programs that would greatly hamper the recruitment of PAI attorneys.

*Section 1644.5 Recipient Policies and Procedures*

This section requires the recipient to establish written policies and procedures to guide the recipient's staff to ensure compliance with this rule. Such procedures could include information regarding how any person may be given access to or be provided

with copies of a recipient's case disclosure information. The procedures could also set out the costs for copying or mailing such information.

**List of Subjects in 45 CFR Part 1644**

Grant programs, Legal services, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, LSC proposes to amend Chapter XVI of Title 45 by adding part 1644 as follows:

## PART 1644—DISCLOSURE OF CASE INFORMATION

Sec.
1644.1 Purpose.
1644.2 Definitions.
1644.3 Case disclosure requirement.
1644.4 Applicability.
1644.5 Recipient policies and procedures.

**Authority:** Pub. L. 105–119, 111 Stat. 2440, Sec. 505; Pub. L. 104–134, 110 Stat. 1321; 42 U.S.C. 2996g(a).

### § 1644.1 Purpose.

The purpose of this rule is to ensure that recipients disclose to the public and to the Corporation certain information on cases filed in court by their attorneys.

### § 1644.2 Definitions.

For the purposes of this part:

(a) *To disclose the cause of action* means to provide a sufficient description of the case to indicate the type or principal nature of the case.

(b) *Recipient* means any grantee or contractor receiving funds from the Corporation under section 1006(a)(1) of the Act and includes any subrecipient which receives LSC funds from a recipient for direct representation of eligible clients.

(c) *Attorney* means any attorney employed by the recipient, as a regular or contract employee, and regardless of whether the attorney is employed full-time or part time.

### § 1644.3 Case disclosure requirement.

(a) For each case filed in court by its attorneys after January 1, 1998, a recipient shall disclose, in accordance with the requirements of this part, the following information:

(1) The name and full address of each party to a case, unless:

(A) the information is protected by an order or rule of court or by State or Federal law; or

(B) the recipient's attorney reasonably believes that revealing such information would put the client of the recipient at risk of physical harm;

(2) The cause of action;

(3) The name and full address of the court where the case is filed; and

(4) The case number assigned to the case by the court.

(b) Recipients shall provide the information required in paragraph (a) of this section to the Corporation in semiannual reports in the manner specified by the Corporation. Recipients may file such reports on behalf of their subrecipients for cases filed by subrecipients covered by this part. Such reports will be made available to the public by the Corporation upon request pursuant to the Freedom of Information Act, 5 U.S.C. 552.

(c) Upon request, a recipient shall make the information required in paragraph (a) of this section available in written form to any person. Recipients may charge reasonable mailing and document copying fees.

### § 1644.4 Applicability.

(a) The case disclosure requirements of this part apply:

(1) Only to actions filed on behalf of plaintiffs or petitioners;

(2) Only to the original filing of a case, except for appeals filed in appellate courts by a recipient if the recipient was not the attorney of record in the case below; or

(3) To judicial appeals of administrative actions when such appeals are first filed in court.

(b) This part does not apply to cases filed by private attorneys as part of a recipient's private attorney involvement activities pursuant to part 1614 of this chapter.

### § 1644.5 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to implement the requirements of this part.

Dated: February 13, 1998.

**Suzanne B. Glasow,**

*Senior Assistant General Counsel.*

[FR Doc. 98–4157 Filed 2–18–98; 8:45 am]

BILLING CODE 7050–01–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 980112009–8009–01; I.D. 110697B]**

**RIN 0648–AK36**

## Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS is proposing revisions to several sections of regulations that pertain to permits, recordkeeping and reporting requirements for fisheries of the Exclusive Economic Zone (EEZ) off Alaska. The changes made by this rule are necessary to clarify and simplify existing text, facilitate management of the fisheries, promote compliance with regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the fishery management plans (FMPs) for the fisheries of the EEZ off Alaska.

**DATES:** Comments must be received by March 6, 1998.

**ADDRESSES:** Comments must be sent to Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Send comments on collection-of-information requirements to the above address and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

### Background

NMFS manages the groundfish fisheries in the EEZ off Alaska under authority of the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) Area. These FMPs are implemented by regulations at 50 CFR part 679. General regulations that also pertain to these fisheries appear in subpart H to 50 CFR part 600. The FMPs were prepared by the North Pacific Fishery Management Council under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

NMFS is proposing revisions to several sections of the implementing regulations for these FMPs that pertain to permits, recordkeeping, and reporting. The proposed changes would clarify existing regulatory text, facilitate management of the fisheries, promote compliance with regulations, and facilitate enforcement efforts.

**Definitions**

*Revisions.* The following revisions to definitions in § 679.2 are proposed:

*Manager.* The current definition of ''manager'' includes reference to a buying station; however, only land-based buying stations have a manager. The proposed revision corrects the definition to refer specifically to land-based buying stations.

*Reporting area.* The term ''reporting area'' in past years included reference to Alaska State waters. In that context a reporting area consisted of an EEZ portion and a State portion. NMFS then expanded the term ''reporting area'' to include areas like the Donut Hole that did not contain either EEZ or State waters. Also, a reporting area could consist entirely of State waters. The proposed revision amends the definition of ''reporting area'' to include all three possible meanings.

*Transfer.* A revision of the definition of ''transfer'' is proposed to clarify that a transfer occurs after initial delivery from a catcher vessel.

*Additions.* The following additions to the definitions in § 679.2 are proposed:

*Ancillary product.* The term ''ancillary product'' is used extensively in § 679.5 and is defined at § 679.20(g)(2)(iii). To clarify the regulations, the text defining ''ancillary product'' would be removed from § 679.20 and inserted into the definitions section at § 679.2.

*Groundfish product or fish product.* The term ''groundfish product or fish product'' would be added to § 679.2 and would be defined to mean any product for which a code is listed in Table 1 to part 679, and for any species for which a code is listed in Table 2 to part 679, except the prohibited species codes in Table 2 to part 679.

*Individual Fishing Quota (IFQ) Regulatory Areas, sablefish.* The terms ''Central Gulf or GOA Central Regulatory Area,'' ''Eastern Gulf or GOA Eastern Regulatory Area,'' and ''Western Gulf or GOA Regulatory Area'' would be added to § 679.2 because they are used in the regulatory text at various locations.

**Cross References**

NMFS proposes to add the following cross references:

To § 679.2, the terms ''catch,'' ''discard,'' and ''retain on board'' at § 600.10 and § 679.27.

To § 679.4, the terms ''Experimental fisheries permits'' and ''Salmon donation program permits'' at § 679.6 and § 679.26(a)(3), respectively.

To § 679.2, the terms ''other flatfish,'' ''shallow water flatfish,'' ''deep water flatfish,'' ''other rockfish,'' and ''other red rockfish'' at § 679.20(c).

To § 679.5(c)(3)(iv), the topic regarding submittal of a blue Daily Fishing Logbook (DFL) logsheet at § 679.5(a)(10)(ii)(B).

To § 679.25, the topic regarding inseason adjustments at § 679.20(d)(1)(ii)(A).

To § 679.21(b), the topic regarding sablefish at § 679.23(g)(3).

**NMFS proposes to revise the following cross references:**

Revise § 679.20 to § 679.20(d), regarding closures at § 679.22(a)(7)(ii), § 679.22(a)(8)(ii), and § 679.22(b)(2)(ii).

**Figures**

*Gear test areas.* NMFS proposes to correct the gear test areas shown in Figure 7 to part 679.

*Chinook salmon savings areas.* NMFS proposes to remove the coordinates of the chinook salmon savings area from regulatory text at § 679.21(e)(7)(vii)(B), present the coordinates in a new Figure 8 to part 679, and place a cross reference in this paragraph to Figure 8 to part 679.

*Chum salmon savings areas.* NMFS proposes to remove the coordinates of the chum salmon savings area from regulatory text at § 679.21(e)(7)(vi)(B), present the coordinates in a new Figure 9 to part 679, and place a cross reference in this paragraph to Figure 9 to part 679.

*Pribilof Islands Area Habitat Conservation Zone.* NMFS proposes to remove the coordinates of the Pribilof Islands Area Habitat Conservation Zone from regulatory text at § 679.22(a)(6), present the coordinates in a new Figure 10 to part 679, and place a cross reference in this paragraph to Figure 10 to part 679.

*Red King Crab Savings Area (RKCSA).* NMFS proposes to remove the coordinates of the RKCSA from regulatory text at § 679.22(a)(3), present the coordinates in a new Figure 11 to part 679, and place a cross reference in this paragraph to Figure 11 to part 679.

*Nearshore Bristol Bay trawl closure area.* NMFS proposes to remove the coordinates of the Nearshore Bristol Bay trawl closure area from regulatory text at § 679.22(a)(9), present the coordinates in a new Figure 12 to part 679, and place a cross reference in this paragraph to Figure 12 to part 679.

*C. opilio Crab Bycatch Limitation Zone (COBLZ).* NMFS proposes to remove the coordinates of the COBLZ from regulatory text at § 679.21(e)(7)(iv)(B), to present the coordinates in a new Figure 13 to part 679, and to place a cross reference in this paragraph to Figure 13 to part 679.

*Scallop registration areas.* NMFS proposes to remove the coordinates of the scallop registration areas and districts from regulatory text at § 679.61 (a) through (i), present the coordinates in a new Figure 14 to part 679, and place a cross reference in this paragraph to Figure 14 to part 679.

*Sablefish regulatory areas.* NMFS proposes to add a new Figure 15 to part 679 to describe the sablefish IFQ regulatory areas referenced at § 679.41(e).

*Pacific halibut regulatory areas.* NMFS proposes to add a new Figure 16 to part 679 to describe the IFQ regulatory areas for the Pacific halibut fishery that are referenced at § 679.2 and § 679.41(e).

**Tables**

NMFS proposes to amend Table 1 to part 679 by revising the title of discard code M99 to read, ''Discard, off-site meal.''

NMFS proposes to amend Table 2 to part 679 to accommodate the Council's recommendation for BSAI and GOA FMP amendments to add new species categories of forage fish.

NMFS proposes to amend Table 3 to part 679 by:

a. Revising the title to read: Table 3—Product Recovery Rates (PRR) for Groundfish Species and Conversion Rates for Pacific halibut.

b. Moving the halibut conversion factors presented in regulatory text at § 679.42(c)(2)(iii) to Table 3 to part 679 and placing a cross reference in that paragraph to Table 3 to part 679.

**Reformat and Clarify Regulatory Text**

NMFS proposes to alter the format of the regulatory text in several places to provide a more logical flow of information, to clarify text, to add paragraph titles where needed, and to correct spelling errors as follows:

Remove from § 679.5(d)(1)(i) the words ''subject to this part,'' as outdated language.

Add § 679.5(a)(3)(iii) to indicate signature is acceptance of responsibility.

Remove the words ''if applicable'' from § 679.5(a)(5)(ii).

Add Alaska Department of Fish & Game (ADF&G) processor code and Federal fisheries permit number to § 679.5(a)(5)(vii).

Add signature to § 679.5(a)(5)(viii).

Establish a single source of information in regulatory text for participant identification information (§ 679.5(a)(5)), maintenance of records (§ 679.5(a)(6)), active and inactive periods (§ 679.5(a)(7)), and discarded/donated species information (§ 679.5(a)(10)) by removing text that

duplicates that information from § 679.5(a)(10)(ii) through (v), (c)(3), (d)(2), (e)(2), (f)(2), (g)(3), (h)(3), (i)(3), (j)(4), and (k)(2).

Add the words ''in the logbook'' after ''fishing year'' in § 679.5(a)(6)(ii).

Revise ''date'' description under § 679.5(a)(6)(iii)(B) for catcher vessel DFL and shoreside processor daily cumulative production logbook (DCPL).

Revise ''page'' description under § 679.5(a)(7)(ii).

Remove the words ''or catch receipts'' in § 679.5(a)(16)(ii).

Present as separate paragraphs the catcher vessel and catcher/processor requirements at § 679.5(c)(2).

Correct the words ''vessel registration number'' to read ''vessel number'' in § 679.5(d)(2)(ii)(D), (e)(2)(ii), and (f)(2)(i)(D).

Revise paragraph § 679.5(f)(2)(i)(E) from ''nearest 0.001 mt'' to read ''in pounds or to the nearest mt.''

Change time limit submittal requirement at § 679.5(g)(2)(ii) for product transfer reports (PTRs) from ''within 24 hr of completion of transfer'' to read ''by 1200 hours A.l.t. on the Tuesday following the end of the applicable weekly reporting period.''

Remove a duplicate but partial list of pollock PRRs from § 679.20(g)(3) and place a cross reference in that paragraph to Table 3 to part 679.

Add paragraph titles to § 679.41(e)(1), (2), and (3).

Remove the requirement to record Federal or Alaska State areas within a reporting area.

Add the requirement to record information regarding COBLZ or RKCSA within a reporting area.

NMFS proposes to revise the requirement for recording haul or set numbers at § 679.5(c)(3)(i) to use consecutive numbers by year to identify each haul or set; each haul or set would be unique within a given year. This proposed change would allow better coordination between industry and observer records by establishing a standard method of accounting for haul and set numbers.

NMFS proposes to remove the requirements to record ''balance forward'' information in the shoreside processor DCPL landings discard/donation, and production at § 679.5(a)(8), (9), and (10). The shoreside processor DCPL is designed to accommodate 1 week's data on one page; therefore, there is no balance forward from a previous page.

*Non-Alaska Fish Tickets*

NMFS proposes to clarify the requirements for fish tickets from shoreside processors located in a state other than Alaska at § 679.5(f)(2)(i)(G).

**Recordkeeping and Reporting**

*ADF&G Fish Tickets*

Currently, when a mothership receives groundfish from a catcher vessel, the operator of the mothership issues a catch receipt or voluntarily issues an ADF&G fish ticket to the catcher vessel. If a fish ticket is issued, the fish ticket number is reported by the mothership on a weekly production report (WPR). NMFS proposes to add a requirement at § 679.5(m) that would remove the option from motherships to issue a catch receipt to catcher vessels and would require all motherships to weekly aggregate groundfish harvest information on an ADF&G fish ticket by species for each catcher vessel delivering groundfish to the mothership and to submit each fish ticket monthly to ADF&G. This change would provide a more complete record of catcher vessel participation in the groundfish fisheries. Information collected on fish tickets is needed to assess alternative fisheries management programs that may be considered by the Council in the future.

*Groundfish as Bait*

No Federal or Alaska State mechanism exists for reporting the amounts of groundfish retained as bait by catcher vessels in the crab fishery because the fish are not landed or delivered to a processor. NMFS has determined that the quantities of groundfish involved are relatively small and can be sufficiently estimated for purposes of management of the groundfish resource. NMFS proposes to add § 679.5(a)(1)(iv) to exempt such catcher vessels from groundfish recordkeeping and reporting requirements.

NMFS proposes to revise regulatory text to clarify the recording of aggregated bait sales on a product transfer report (PTR) at § 679.5(g)(1)(iii).

*Fishing Trip*

NMFS proposes to remove the requirement to record the start date, end date, and trip number of a fishing trip by catcher vessels and catcher/processors at § 679.5(c)(3)(i)(B). NMFS determined that documentation of fishing activity within a trip can be obtained from other logbook data.

*Recording Retained Pacific Cod and Rockfish*

NMFS proposes to reformat the DFL and catcher/processor DCPL and revise the regulatory text at § 679.5(c)(3). These changes would complement prior revisions in the regulations at § 679.7(f)(8) concerning retention of Pacific cod and rockfish caught incidentally while fishing in an IFQ fishery.

*''Required'' vs ''Issued''*

NMFS proposes to clarify the regulatory text at § 679.5(a)(1)(ii) to read ''issued a permit'' to replace ''required to have a permit.'' This change would clarify that processors that receive groundfish from a vessel that has been issued a Federal fisheries permit are required to comply with all the applicable recordkeeping and reporting requirements for the remainder of the year, regardless of where the fish were caught.

*Reprocessed Product*

NMFS proposes to add the words, ''PTR TRANSFER,'' as an option under the category ''gear type'' in the regulatory text at § 679.5(a)(7)(v)(A) and on the DFL, mothership and shoreside processor DCPL, daily cumulative logbook (DCL), WPR, and PTR to document the removal (or receipt) of groundfish for reprocessing. Each processor records fish products in the DCPL and reports these products to NMFS on a WPR. Through the use of this new option, when groundfish are shipped from one processor to another processor for reprocessing, the product would be identified as reprocessed and would ensure that the groundfish quantity is not deducted from the quota twice.

*Gear Type*

NMFS proposes to add the word, ''OTHER,'' as an option under the category ''gear type'' in the regulatory text at § 679.5(a)(7)(v)(A) and on the DFL, DCL, DCPL, WPR to indicate groundfish product received from catcher vessels using gear other than federally authorized gear types in Alaska State waters. This situation occurs when a vessel is fishing in a non-groundfish fishery with a gear other than the authorized gear defined at § 679.2 and that vessel retains the groundfish.

*Active Status*

NMFS proposes to describe ''active status'' in the regulations at § 679.5(a)(7)(vi) through (ix) and the logbooks in consistent terms. In the DFL and catcher/processor DCPL, the wording for active/inactive status is ''Active, Not Fishing''; in the regulations, the wording ''No Fishing Activity'' would be changed to read ''Active, Not Fishing.'' When referring to a mothership or shoreside processor, the regulatory text would be changed to read ''No Receiving or processing activity.'' When referring to a buying

station, the regulatory text would be changed to read ''No receiving or delivery activity.''

*Summarize by Weekly Reporting Period*

NMFS proposes to reinsert language in regulatory text at § 679.5(a)(8)(ii)(D) and (a)(9) (iii) and (iv) requiring that all landings, discards, and production records be summarized at the end of the weekly reporting period. Through previous consolidation of regulations, some of this language was lost.

*Discards or Donations*

NMFS proposes to change the regulatory text from ''discards and donations'' to read ''discards or donations'' wherever it appears.

*Procedure for Recording Discards or Donations*

In § 679.5(a), the text regarding discards or donations is duplicated several times. To remove this duplication, NMFS proposes to describe the procedure to record discards or donations at § 679.5(a)(10)(i)(C), remove the duplicate text from § 679.5(a)(10)(ii)(A), (iii)(A), (iv)(B) and (C), and (v)(B), and place a cross reference in those paragraphs to § 679.5(a)(10)(i)(C).

*Discard, Off-Site Meal*

NMFS proposes to clarify regulatory text concerning an off-site transfer of discard at § 679.5(g)(1)(ii) and to identify such a transfer as discard code M99 in Table 1 to Part 679.

*Logsheet Maintenance and Storage*

NMFS proposes to revise the submittal instructions in the regulations, logbooks, and instructions in response to the move of NMFS logbook file storage from the Observer Program in Seattle, WA, to NOAA Enforcement Division in Juneau, AK.

*Delivery Information*

NMFS proposes to revise paragraph headings at § 679.5(d)(2)(ii), (e)(2), and (f)(2)(i) to read ''delivery information'' for consistency with the logsheet text.

*Time Limits*

NMFS proposes to change the regulatory text regarding recordkeeping and reporting time limits. The proposed changes would clarify existing text and add specific reference to recording of discard or donation information in the DFL, DCL, and DCPL at § 679.5(d)(1) (i) and (ii), (e)(1) (i) and (ii), and (f)(1) (i) and (ii). The proposed changes would not alter the time limits in which the information must be recorded.

NMFS proposes to revise some regulatory text that causes a conflict in recordkeeping and reporting submittal times at § 679.5(c)(2)(i)(B), (c)(2)(ii)(B), (d)(1)(ii), (e)(1)(ii), and (f)(1)(ii).

*PTR Fax to Enforcement*

NMFS proposes to revise the regulatory text at § 679.5(g)(2)(ii) from ''Regional Administrator'' to read ''NMFS Enforcement'' because a PTR would no longer be sent to the Regional Administrator but to NMFS Enforcement at the fax number printed on the PTR.

*Shoreside Processor Check-out Report*

NMFS proposes to clarify regulatory text at § 679.5(h)(2)(ii)(C) and the shoreside processor check-in/check-out report to allow a shoreside processor the option of submitting a check-out report when receipt or processing of groundfish is temporarily halted during the fishing year for a period greater than 2 weeks.

*Shoreside Processor Product Held at Plant*

NMFS proposes to clarify regulatory text at § 679.5(h)(3)(iii) to require that all fish product held at a shoreside facility be reported on each check-in/check-out report.

*Procedure for Recording Blue Discard DFL*

NMFS proposes to clarify the recordkeeping procedure at § 679.5(d)(2)(ii)(B), (e)(2)(vi), and (f)(2)(i)(C) for the operator or manager of a buying station, mothership, or shoreside processor that does not receive a blue discard DFL logsheet with groundfish catch from a catcher vessel. If a blue discard logsheet is not received, currently the operator or manager records ''NO'' in the RECEIVE DISCARD REPORT column. NMFS proposes to require the operator or manager to also indicate, after the response ''NO,'' either ''P'' to indicate the catcher vessel does not have a Federal fisheries permit; ''L'' to indicate the catcher vessel is under 60 ft (18.3 m) length overall (LOA); or ''U'' to indicate the catcher vessel delivered an unsorted codend. If a catcher vessel is under 60 ft (18.3 m) LOA and also does not have a Federal fisheries permit, the operator or manager would record ''P.''

**Prohibitions**

NMFS proposes to add two new prohibitions at § 679.7 that are supported by current regulations: (1) To receive or process groundfish without a Federal processor permit and (2) to exceed a maximum retainable groundfish bycatch amount.

**Classification**

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). OMB approval for the majority of this information has been obtained under OMB control numbers 0648–0206 and –0213; additions and revisions to the collection have been submitted to OMB for approval of additions and revisions.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

*Approved Under 0648–0206—Alaska Permits*

No new forms or revisions to forms.

*Approved Under 0648–0213—Alaska Region Logbook Family of Forms*

Revisions to existing logbooks and forms have the following effects: Estimated time for an operator of a catcher vessel with fixed gear to complete a DFL decreases from 0.38 hour per response to 0.30 hour per response; estimated time for an operator of a catcher vessel with gear other than fixed gear to complete a DFL decreases from 0.37 hour per response to 0.30 hour per response; estimated time for an operator of a catcher/processor with fixed gear to complete a catcher/processor DCPL decreases from 0.58 hour per response to 0.50 hour per response; estimated time for an operator of a catcher/processor with gear other than fixed gear to complete a catcher/processor DCPL decreases from 0.56 hour per response to 0.50 hour per response; estimated time for an operator of a mothership to complete a mothership DCPL decreases from 0.55 hour per response to 0.52 hour per response; estimated time for a manager of a shoreside processor to complete a shoreside processor DCPL decreases from 0.45 hour per response to 0.40 hour per response; estimated time for a manager or operator of a buying station to complete a buying station DCL decreases from 0.42 hour per response to 0.38 hour per response; estimated time for a manager or operator of a processor to complete a WPR decreases from 0.30 hour per response to 0.28 hour per response; estimated time for a manager or operator of a processor to complete a daily production report (DPR) increases from 0.17 hour per response to 0.18 hour per response;

estimated time for a manager or operator of a processor to complete a check-in/check-out report decreases from 0.13 hour per response to 0.12 hour per response for vessel processors and remains constant at 0.13 hour per response for shoreside processors; estimated time for a manager or operator of a buying station to complete a check-in/check-out report decreases from 0.10 hour per response to 0.08 hour per response; estimated time for an operator of a vessel to complete a Vessel Activity Report (VAR) decreases from 0.25 hour per response to 0.23 hour per response; removal of voluntary submittal of an ADF&G Alaska Commercial Operator's Annual Report results in a decrease of 6 hours per response; addition of the requirement for motherships to submit ADF&G fish tickets results in an increase of 0.58 hour per response. The estimated response times shown include the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the function of the agency, including rather the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and to OIRA, OMB (see **ADDRESSES**).

This action has been determined to be not significant for purposes of E.O. 12866. This determination is based on the information gathered within the Regulatory Impact Review (RIR) prepared for regulatory amendments to recordkeeping and reporting requirements (June 1995) and a finding of non-significance made for the 1994 rulemaking. No substantive recordkeeping or reporting changes are made with this proposed rule.

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows.

Recordkeeping and reporting applies to almost all of the vessels currently participating in Alaska groundfish fisheries. This is a ''substantial number'' of small entities, as NMFS has interpreted this term to mean 20 percent of the total universe of small entities affected by the regulation. However the proposed action would not impose any additional compliance costs on small entities. It would impose minor changes and in many instances reduce the time needed to complete the recordkeeping and reporting documents. Therefore, this action would not have a ''significant impact,'' as NMFS has interpreted that term to mean: a reduction in annual gross revenues by more than 5 percent, an increase in total costs of production by more than 5 percent, or compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities.

Therefore, a regulatory flexibility analysis was not prepared.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: February 5, 1998.

**David L. Evans,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.,* 1801 *et seq.,* and 3631 *et seq.*

2. In § 679.2, the definitions for ''C. Opilio Crab Bycatch Limitation Zone (COBLZ),'' ''Manager,'' ''Reporting area,'' and ''Transfer'' are revised; and definitions for ''Ancillary product,'' ''Bled codend,'' ''Catch,'' ''Central Gulf or GOA Central Regulatory Area,'' ''Deep water flatfish,'' ''Discard,'' ''Eastern Gulf or GOA Eastern Regulatory Area,'' ''Groundfish product or fish product,'' ''Other flatfish,'' ''Other red rockfish,'' ''Other rockfish,'' ''Retain on board,'' ''Shallow water flatfish,'' and ''Western Gulf or GOA Western Regulatory Area'' are added, in alphabetical order to read as follows:

**§ 679.2 Definitions.**

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*Ancillary product* means a product, such as meal, heads, internal organs, pectoral girdles, or any other product that may be made from the same fish as the primary product.

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*Bled codend* means a form of discard by vessels using trawl gear wherein some or all of the fish are emptied into the sea from the net before fish are brought fully on board.

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*C. Opilio Crab Bycatch Limitation Zone (COBLZ)* (see Figure 13 of this part and § 679.21(e)).

*Catch* (See § 600.10.)

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*Central Gulf or GOA Central Regulatory Area* means that portion of the GOA EEZ that is contained in Statistical Areas 620 and 630 (see Figure 3 of this part).

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*Deep water flatfish* (See annual final specifications published in the **Federal Register** pursuant to § 679.20(c)).

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*Discard* (See § 600.10.)

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*Eastern Gulf or GOA Eastern Regulatory Area* means the Reporting Areas 649 and 659 and that portion of the GOA EEZ that is contained in Statistical Areas 640 and 650 (see Figure 3 of this part).

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*Groundfish product or fish product* means any species product listed in Tables 1 and 2 of this part, excluding the prohibited species listed in Table 2 of this part.

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*Manager,* with respect to any shoreside processor or land-based buying station, means the individual responsible for the operation of the shoreside processor or land-based buying station.

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*Other flatfish* (See annual final specifications published in the **Federal Register** pursuant to § 679.20(c).)

*Other red rockfish* (See annual final specifications published in the **Federal Register** pursuant to § 679.20(c).)

*Other rockfish* (See annual final specifications published in the **Federal Register** pursuant to § 679.20(c).)

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*Reporting area* (see Figures 1 and 3 of this part) means: (1) An area that includes a statistical area of the EEZ off Alaska and any adjacent waters of the State of Alaska ; (2) the reporting areas 300, 400, 550, and 690, which do not contain EEZ waters off Alaska or Alaska state waters; or (3) reporting areas 649 and 659, which contain only waters of the State of Alaska.

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*Retain on board* (See §§ 600.10 and 679.27.)

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*Shallow water flatfish* (See annual final specifications published in the

**Federal Register** pursuant to § 679.20(c).)

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*Transfer* includes any loading, offloading, shipment or receipt of any groundfish product after initial delivery from a catcher vessel, including quantities transferred inside or outside the EEZ, within any state's territorial waters, within the internal waters of any state, at any shoreside processor, or any offsite meal reduction plant.

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*Western Gulf or GOA Western Regulatory Area* means that portion of the GOA EEZ that is contained in Statistical Area 610 (see Figure 3 of this part).

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3. In § 679.3, paragraph (b) is revised to read as follows:

**§ 679.3 Relation to other laws.**

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(b) *Domestic fishing for groundfish.* (1) The conservation and management of groundfish in waters of the territorial sea and internal waters of the State of Alaska are governed by the Alaska Administrative Code at 5 AAC Chapter 28 and the Alaska Statutes at Title 16.

(2) Alaska Administrative Code (5 AAC 39.130) governs reporting and permitting requirements using ADF&G ''Intent to Operate'' and ''Fish Tickets.''

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4. In § 679.4, paragraph (f)(1) is amended by removing the ''s'' from the word ''States'' that follows the word ''Alaska;'' and paragraphs (i) and (j) are added to read as follows:

**§ 679.4 Permits.**

* * * * *

(i) *Experimental fisheries permits.* (See § 679.6.)

(j) *Salmon donation program permits.* (See § 679.26(a)(3).)

5. Section 679.5 is amended to read as follows by:

(a) Revising paragraph (a)(1) introductory text and the first sentence of paragraph (a)(1)(ii); and by adding paragraph (a)(1)(iv).

(b) Revising paragraph (a)(3).

(c) Revising paragraph (a)(5)(ii) and by adding paragraphs (a)(5) (vii) and (viii).

(d) Revising paragraphs (a)(6)(ii) and (a)(6)(iii)(B); and by adding paragraph (a)(6)(iii)(I).

(e) Adding paragraphs (a)(7)(vii) through (ix); and by revising paragraphs (a)(7)(ii), (a)(7)(v) (A) through (D), (a)(7)(v)(F), and (a)(7)(vi).

(f) Revising paragraphs (a)(8)(i) and (a)(8)(ii)(B); and by removing paragraph (a)(8)(iii).

(g) Revising paragraph (a)(9)(i); redesignating paragraph (a)(9)(iii) as (a)(9)(v) and revising it; and by adding paragraphs (a)(9) (iii) and (iv).

(h) Revising paragraphs (a)(10)(i) introductory text, (a)(10)(i)(A), (a)(10)(ii), (a)(10)(iii)(B), (a)(10)(iv), (a)(10)(v)(A) and by adding paragraphs (a)(10)(i)(C).

(i) Revising paragraph (a)(14)(i)(A).

(j) Revising paragraph (a)(15)(i) heading.

(k) Revising paragraph (a)(16)(ii).

(l) Revising paragraphs (c)(2) (i) and (ii); and by removing paragraphs (c)(2) (iii) through (vi).

(m) Revising paragraph (c)(3); and by adding paragraphs (c)(4) and (c)(5).

(n) Removing paragraphs (d)(2)(i) (A) through (G) and (d)(2)(iii); revising paragraph (d)(1), (d)(2)(i), (d)(2)(ii) heading, (d)(2)(ii) (A), (B), (D), and (E).

(o) Removing paragraphs (e)(2) (i), (iii), and (iv); by redesignating paragraphs (e)(2)(ii) introductory text and (e)(2)(ii)(A) through (e)(2)(ii)(E) as paragraphs (e)(2) introductory text, and (e)(2)(i) through (e)(2)(v), respectively; by revising paragraphs (e)(1), newly redesignated paragraph (e)(2) introductory text; and by adding paragraph (e)(2)(vi).

(p) Removing paragraphs (f)(2) (i), (iii), (iv), and (v), by redesignating paragraphs (f)(2)(ii) introductory text as paragraph (f)(2)(i) introductory text; by revising paragraphs (f)(i) and newly redesignated (f)(2)(i); and by adding paragraphs (f)(2)(i)(G) and (f)(2)(ii).

(q) Revising paragraph (g)(1)(ii), adding a sentence to the end of paragraph (g)(1)(iii), revising paragraph (g)(2)(ii), adding headings to paragraphs (g)(3)(ii) (A), (B), and (C), revising paragraph (g)(3)(ii)(E)(*1*), revising the heading to paragraph (g)(3)(ii)(E)(*2*); and revising paragraphs (g)(3)(ii)(E)(*2*) (*ii*), and (*iii*).

(r) Revising paragraphs (h)(2)(i) (A) and (B), and (h)(2)(ii) (A) through (D); redesignating paragraph (h)(3)(iv) as (h)(3)(iii) and revising it; and adding paragraph (h)(3) introductory text; and revising paragraphs (h)(3)(i) and (h)(3)(ii).

(s) Revising paragraphs (i)(3) (i), (ii) and (v).

(t) Adding paragraph (j)(4) introductory text; by removing paragraph (j)(4)(i); and by redesignating paragraphs (j)(4) (ii) through (iv) as paragraphs (j)(4)(i) through (j)(4)(iii) and revising them.

(u) Adding a new paragraph (m).

**§ 679.5 Recordkeeping and reporting.**

(a) * * *

(1) * * * Except as provided in paragraphs (a)(1) (iii) and (iv) of this section, the following participants must comply with the recordkeeping and reporting requirements of this section:

* * * * *

(ii) Any shoreside processor, mothership, or buying station that receives groundfish from vessels issued a Federal fisheries permit under § 679.4.

* * *

* * * * *

(iv) *Exemption for groundfish used as crab bait.* (A) Owners or operators of catcher vessels who take groundfish in crab pot gear for use as crab bait on board their vessels while participating in an open season for crab, and the bait is neither transferred nor sold, are exempt from Federal recordkeeping and reporting requirements contained in paragraphs (a) through (j) of this section.

(B) This exemption does not apply to fishermen who:

(*1*) Catch groundfish for bait during an open crab season and sell that groundfish or transfer it to another vessel, or

(*2*) Participate in a directed fishery for groundfish using any gear type during periods that are outside an open crab season for use as crab bait on board their vessel.

(C) No groundfish species listed by NMFS as ''prohibited'' in a management or regulatory area may be taken in that area for use as bait.

(D) Any fishing with pot gear in the crab fisheries is subject to restrictions under Alaska State regulations.

* * * * *

(3) *Responsibility.* (i) The operator of a catcher vessel, catcher/processor, mothership, or buying station receiving from a catcher vessel and delivering to a mothership (hereafter referred to as the operator) and the manager of a shoreside processor or buying station receiving from a catcher vessel and delivering to a shoreside processor (hereafter referred to as the manager) are each responsible for complying with the applicable recordkeeping and reporting requirements of this section.

(ii) The owner of a vessel, shoreside processor, or buying station must ensure that the operator, manager, or representative (see paragraph (b) of this section) complies with these requirements and is responsible for compliance.

(iii) The signature of the owner, operator, or manager on the DFL, DCL, or DCPL is verification of acceptance of this responsibility.

* * * * *

(5) * * *

(ii) If a catcher vessel, the Federal fisheries permit number and ADF&G vessel number.

* * * * *

(vii) If a mothership or catcher/processor, the ADF&G processor code and Federal fisheries permit number.

(viii) Signature of owner, operator, or manager.

(6) * * *

(ii) The operator or manager must account for each day of the fishing year in the logbook, starting with January 1 and ending with December 31. Time periods must be consecutive in the logbook.

(iii) * * *

(B) *Date,* presented as month-day-year. (*1*) If a catcher vessel, and the logsheet contains more than one day in the ''catch'' section, enter date of first day recorded on logsheet.

(*2*) If a catcher vessel, enter date of each day in the discard/donate section of the DFL.

(*3*) If a shoreside processor, enter the week-ending date for the page.

(*4*) If a shoreside processor, enter date of each day of the week in the landings and discard/donate sections of the DCPL.

* * * * *

(I) *Processor type.* If a mothership or catcher/processor, enter processor type.

(7) * * *

(ii) (A) If a mothership, catcher/processor, or buying station, use a separate logbook page for each day of an active period.

(B) If a catcher vessel, use a separate logbook page for each day or use one logbook page for up to 7 days.

(C) If a shoreside processor, use a separate logbook page for each day or use one logbook page for up to 7 days.

* * * * *

(v) * * *

(A) The gear type used to harvest the groundfish.

(*1*) If a catcher vessel or catcher/processor and using hook-and-line gear, the average number of hooks per skate.

(*2*) If shipment is received by a mothership or shoreside processor from a different processor through the use of a PTR, circle PTR TRANSFER.

(*3*) If gear type is not an authorized fishing gear, circle OTHER.

(*4*) If groundfish are received by a mothership in the same reporting area from more than one gear type, the operator must use a separate page in the DCPL for each gear type and must submit a separate check-in/check-out report, DPR (if required), and WPR for each gear type.

(*5*) If groundfish are caught by a catcher/processor in the same reporting area using more than one gear type, the operator must use a separate page in the DCPL for each gear type and must submit a separate check-in/check-out report, DPR (if required), and WPR for each gear type.

(B) The reporting area code where gear retrieval was completed.

(*1*) If a catcher vessel or catcher/processor using trawl gear, record whether catch was harvested in the COBLZ or RKCSA. Use a separate page in the DFL or DCPL for the COBLZ or RKCSA area.

(*2*) If a catcher/processor using trawl gear, the operator must submit a separate check-in/check-out report for the COBLZ or RKCSA area.

(C) The number of observers aboard or on site.

(D) Except for a shoreside processor, the number of crew, excluding certified observer(s), on the last day of the reporting week.

* * * * *

(F) If a catcher vessel or buying station, the name and ADF&G processor code of the mothership or shoreside processor to which groundfish deliveries were made.

(vi) If a catcher vessel, in an active period, and not harvesting or discarding groundfish, the operator must record ''ACTIVE, NOT FISHING'' and briefly describe the reason.

(vii) If a catcher/processor, in an active period, and not harvesting, discarding, or processing groundfish, the operator must record ''ACTIVE, NOT FISHING'' and briefly describe the reason.

(viii) If a mothership or shoreside processor, in an active period, and not receiving, discarding, or processing groundfish, the operator or manager must record ''NO RECEIVING OR PROCESSING ACTIVITY'' and briefly describe the reason.

(ix) If a buying station, in an active period, and not receiving, discarding, or delivering groundfish, the operator or manager must record ''NO RECEIVING OR DELIVERING ACTIVITY'' and briefly describe the reason.

(8) * * *

(i) Record and report groundfish landings by species codes and product codes as defined in Tables 1 and 2 of this part for each reporting area, gear type, and CDQ number. If caught with trawl gear, record whether catch was harvested in the COBLZ or RKCSA.

(ii) * * *

(B) At the end of each weekly reporting period, enter for each species/product code, the cumulative total scale weight of landings for that week.

(9) * * *

(i) Record and report groundfish products by species codes, product codes, and product designations as defined in Tables 1 and 2 of this part for each reporting area, gear type, and CDQ number. If caught with trawl gear, record whether catch was harvested in the COBLZ or RKCSA.

* * * * *

(iii) At the end of each weekly reporting period, the cumulative total weight, calculated by adding the daily totals and total carried forward (except for a Shoreside Processor DCPL) for that week.

(iv) At the beginning of each weekly reporting period, the amount is zero, and nothing shall be carried forward from the previous weekly reporting period.

(v) If no production occurred, record ''NO PRODUCTION'' for that day.

(10) *Discarded or donated species information*—(i) *General.*

(A) The operator or manager must record and report discards or donations by species codes and discard product codes as defined in Tables 1 and 2 of this part for each gear type, CDQ number, and reporting area. If caught with trawl gear, record whether catch was harvested in the COBLZ or RKCSA.

* * * * *

(C) The operator or manager must record and report discards or donations as follows:

(*1*) The date of discard, estimated daily total, balance brought forward (except for a Shoreside Processor DCPL), and cumulative total estimated round fish weight for each discard or donation of groundfish species, groundfish species groups, and Pacific herring in lb, or to at least the nearest 0.001 mt.

(*2*) The date of discard, estimated daily total, balance brought forward (except for a Shoreside Processor DCPL), and cumulative total estimated numbers for each discard or donation of Pacific salmon, steelhead trout, halibut, king crab, and Tanner crab.

(*3*) At the end of each weekly reporting period, the cumulative total weight, calculated by adding the daily totals and total carried forward (except for a Shoreside Processor DCPL) for that week.

(*4*) At the beginning of each weekly reporting period, the amount is zero, and nothing shall be carried forward from the previous weekly reporting period.

(ii) *Catcher vessel discards or donations.* (A) The operator must record in the DFL discards or donations as described in paragraph (a)(10)(i) of this section.

(B) If deliveries to a mothership or shoreside processor are unsorted codends, the catcher vessel is exempt from recording discards in the DFL and from submittal of the blue logsheet

(discards copy) for that delivery. The operator must check the box entitled ''unsorted codend,'' and the blue DFL logsheet (discards copy) may remain in the DFL.

(C) Except as provided at § 679.27(d), in the event a catcher vessel has ''bled'' a codend prior to delivery to a processor or buying station or if the deliveries of a catcher vessel to a processor or buying station are presorted at sea, the operator must check the ''presorted delivery'' box, enter the estimated amount of discards or donations by species, and submit with each harvest delivery the blue DFL logsheet (discards copy) to the mothership, buying station, or shoreside processor.

(iii) *Buying station discards or donations.* * * *

(B) The operator or manager must record in the DCL discards or donations as described in paragraph (a)(10)(i) of this section.

(C) * * *

(iv) *Catcher/processor discards or donations.* The operator of a catcher/processor must record in the DCPL all discards or donations as described in paragraph (a)(10)(i) of this section.

(v) *Mothership or shoreside processor discards or donations.*

(A) The operator of a mothership or manager of a shoreside processor must record in the DCPL discards or donations as described in paragraph (a)(10)(i) of this section that:

* * * * *

(14) * * *

(i) * * *

(A) The operator of a catcher vessel, catcher/processor, or mothership, or the manager of a shoreside processor must submit the yellow logsheets on a quarterly basis to the NMFS Office of Enforcement, Alaska Region Logbook Program, P.O. Box 21767, Juneau, AK 99802–1767, as follows: First quarter, by May 1 of that fishing year; second quarter, by August 1 of that fishing year; third quarter, by November 1 of that fishing year; and fourth quarter, by February 1 of the following fishing year.

* * * * *

(15) * * *

(i) *Logbooks and forms.*

* * * * *

(16) * * *

(ii) The operator or manager of a buying station must submit upon delivery of catch the yellow DCL logsheets to the shoreside processor or mothership to which it delivers groundfish, along with the blue DFL logsheets and ADF&G fish tickets for that delivery.

* * * * *

(c) * * *

(2) * * *

(i) *Catcher vessel.* The operator of a catcher vessel must record in the DFL:

(A) The time, position, and estimated groundfish catch weight within 2 hours after gear retrieval.

(B) Discard or donation information as described at paragraph (a)(10) of this section each day on the day they occur; all other information required in the DFL by noon of the day following gear retrieval.

(C) Notwithstanding other time limits, record all information required in the DFL within 2 hours after the vessel's catch is offloaded.

(D) Except as provided at paragraph (a)(10)(ii)(B) of this section, within 2 hours of completion of catch delivery information, submit the blue DFL logsheets with delivery of the harvest to the operator of a mothership or a buying station delivering to a mothership, or to the manager of a shoreside processor or buying station delivering to a shoreside processor.

(ii) *Catcher/processor.* The operator of a catcher/processor must record in the DCPL, for each haul or set:

(A) The time, position, and estimated groundfish catch weight within 2 hours after gear retrieval.

(B) Product and discard or donation information as described at paragraphs (a)(9) and (a)(10) of this section each day on the day they occur; all other information required in the DCPL by noon of the day following completion of production.

(C) Notwithstanding other time limits, record all information required in the DCPL within 2 hours after the vessel's catch is offloaded.

(3) *Haul/set information.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher vessel or catcher/processor must record the following information for each haul or set:

(i) The number of haul or set, by sequence by year;

(ii) If the vessel is using hook-and-line gear, the number of skates set. If the vessel is using longline pot or single pot gear, the total number of pots set;

(iii) The date (month-day-year), begin time (to the nearest hour) and position coordinates (to the nearest minute) of gear deployment;

(iv) The date (month-day-year), end time (to the nearest hour), and position coordinates (to the nearest minute) of gear retrieval;

(v) The average sea depth and average gear depth, recorded to the nearest meter or fathom;

(vi) The estimated total round catch weight of the groundfish catch in pounds or to the nearest mt. If fishing in IFQ halibut fishery, enter the estimated total weight of groundfish bycatch;

(vii) The round catch weight of pollock and Pacific cod;

(viii) If fishing in an IFQ fishery, the estimated round catch weight of IFQ sablefish;

(ix) If fishing in an IFQ fishery, the round catch weight of rockfish and Pacific cod; and

(x) When fishing in an IFQ fishery and the fishery for Pacific cod or rockfish is closed to directed fishing in that reporting area as described in § 679.20, the operator must record up to and including the maximum retainable bycatch amount for Pacific cod or rockfish as defined in Table 10 or 11 of this part; quantities over this amount must be recorded in the discard or donation section.

(4) *Catcher vessel delivery information.* The operator of a catcher vessel must record:

(i) The date of delivery.

(ii) The name, ADF&G processor code, and ADF&G fish ticket number(s) provided by the operator of the mothership or buying station delivering to a mothership, or the manager of a shoreside processor or buying station delivering to a shoreside processor.

(5) *IFQ data.* The operator of a catcher vessel or catcher/processor must record IFQ information as follows:

(i) Check YES or NO to record if persons aboard have authorized IFQ permits.

(ii) If YES, record the following:

(A) Vessel operator's (captain's) name and IFQ permit number, if any.

(B) The name of each IFQ holder aboard the vessel and each holder's IFQ permit number.

(C) Month and day of landing.

(D) Name of registered buyer.

(E) Name of unloading port.

(d) * * *

(1) *Time limits.* The operator or manager of the buying station must:

(i) Record entries in the DCL as to catcher vessel delivery information within 2 hours after completion of receipt of each groundfish delivery.

(ii) Record discard or donation information required in the DCL as described at paragraph (a)(10) of this section each day on the day they occur; and all other information required in the DCL by noon of the day following the day the receipt of groundfish was completed.

(2) * * *

(i) *General.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator or manager of a buying station must record on each page the name and

ADF&G processor code of the mothership or shoreside processor to which groundfish deliveries were made.

(ii) *Delivery information.* * * *

(A) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish.

(B) Whether blue DFL logsheets were submitted by catcher vessel. If not received, record after the response ''NO'' either ''P'' to indicate the catcher vessel does not have a Federal fisheries permit; ''L'' to indicate the catcher vessel is under 60 ft length overall; or ''U'' to indicate the catcher vessel delivered an unsorted codend. If a catcher vessel is under 60 ft LOA and also does not have a Federal fisheries permit, record ''P''.

* * * * *

(D) The name and ADF&G vessel number of the catcher vessel delivering the groundfish.

(E) The estimated total groundfish delivery weight.

(e) * * *

(1) *Time limits.* The operator of a mothership must record:

(i) ''Delivery information'' in the DCPL within 2 hours after receipt of each groundfish delivery.

(ii) Product and discard or donation information as described at paragraphs (a)(9) and (a)(10) of this section each day on the day they occur; all other information required in the DCPL by noon of the day following the day of production completion.

(2) *Delivery information.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a mothership must record for each delivery:

* * * * *

(v) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish.

(vi) Whether blue DFL logsheets were submitted by catcher vessel. If not received, record after the response ''NO'' either ''P'' to indicate the catcher vessel does not have a Federal fisheries permit; ''L'' to indicate the catcher vessel is under 60 ft length overall; or ''U'' to indicate the catcher vessel delivered an unsorted codend. If a catcher vessel is under 60 ft LOA and also does not have a Federal fisheries permit, record ''P''.

(f) * * *

(1) *Time limits.* The manager of each shoreside processor must record in the DCPL:

(i) All catcher vessel or buying station delivery information within 2 hours after completion of receipt of each groundfish delivery.

(ii) Landings, product, and discard or donation information as described at paragraphs (a)(8), (a)(9), and (a)(10) of this section each day on the day they occur; all other information required in the DCPL by noon of the day following the day of production completion.

(2) * * *

(i) *Delivery information, Part IB.* In addition to requirements described in paragraphs (a) and (b) of this section, the manager of a shoreside processor must record the following information for each delivery:

(A) Date and time when receipt of groundfish catch was completed.

(B) Whether delivery is from a catcher vessel or buying station.

(C) Whether blue DFL logsheets were submitted by a catcher vessel. If not received, record after the response ''NO'' either ''P'' to indicate the catcher vessel does not have a Federal fisheries permit; ''L'' to indicate the catcher vessel is under 60 ft length overall; or ''U'' to indicate the catcher vessel delivered an unsorted codend. If a catcher vessel is under 60 ft LOA and also does not have a Federal fisheries permit, record ''P.''

(D) The name and ADF&G vessel number (if applicable) of the catcher vessel or buying station delivering the groundfish.

(E) The estimated total catch receipt weight in pounds or to the nearest mt.

(F) The ADF&G fish ticket number issued to the catcher vessel delivering groundfish.

(G) If Shoreside Processor is located in a state other than Alaska, the manager must record the fish ticket number issued through that state. If a state fish ticket system is unavailable, the manager must record the catch receipt number.

(ii) *Production information, Part II.* The manager of a shoreside processor must comply with requirements described in paragraphs (a) and (b) of this section and also enter the management area (BSAI or GOA) on each section of the Part II logsheet.

(g) * * *

(1) * * *

(ii) The manager of a shoreside processor must report on a PTR those fish products that are subsequently transferred to any offsite facility for reduction to fish meal, fish oil, and/or discard at sea.

(iii) * * * If bait sales are aggregated for a given day, the transfer start time is the time of the first bait sale; the transfer finish time is the time of the last bait sale.

(2) * * *

(ii) Submit by fax a copy of each PTR to the NMFS Alaska Enforcement Division by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period.

(3) * * *

(ii) * * *

(A) *Other vessel.* * * *

(B) *Port.* * * *

(C) *Agent.* * * *

* * * * *

(E) * * *

(*1*) *Start.* The date and time, as described in paragraph (a)(6)(iii) of this section, the transfer starts.

(*2*) *Finish.* * * *

(*ii*) If shipment involves multiple vans or trucks, the date and time when the last van or truck leaves the plant.

(*iii*) If shipment involves airline flights, record date and time, as described in paragraph (a)(6)(iii) of this section, when the last airline flight shipment of the day leaves the plant.

* * * * *

(h) * * *

(2) * * *

(i) * * *

(A) * * *

(*1*) *Using hook-and-line or pot gear.*

(*i*) Before the operator of a catcher/processor using hook-and-line or pot gear sets gear for groundfish in any reporting area except 300, 400, 550, or 690, the operator must submit by fax a check-in report (BEGIN message) to the Regional Administrator.

(*ii*) The operator of a catcher/processor using hook-and-line or pot gear may be checked-in to more than one area simultaneously.

(*2*) *Using other than hook-and-line or pot gear.*

(*i*) Before the operator of a catcher/processor using other than hook-and-line or pot gear commences fishing for groundfish in any reporting area except 300, 400, 550, or 690, the operator must submit by fax a check-in report (BEGIN message) to the Regional Administrator.

(*ii*) The operator of a catcher/processor using other than hook-and-line or pot gear may be checked-in to only one area at a time.

(B) *Mothership, shoreside processor, buying station*—(i) Before a mothership, shoreside processor, or buying station commences receipt of groundfish from any reporting area except 300, 400, 550, or 690, the operator or manager must submit by fax a check-in report (BEGIN message) to the Regional Administrator.

(ii) The operator of a mothership may be checked into more than one area simultaneously.

* * * * *

(ii) * * *

(A) *Catcher/processor.*

(*1*) *Using hook-and-line or pot gear.*

(*i*) If a catcher/processor using hook-and-line or pot gear departs a reporting area and gear retrieval is complete from that area, the operator must submit by

fax a check-out report to the Regional Administrator within 24 hours after departing a reporting area.

(*ii*) If a catcher/processor using hook-and-line or pot gear is checked-in to multiple reporting areas, the operator must submit by fax a check-out report for each reporting area.

(*2*) *Using other than hook-and-line or pot gear.* If a catcher/processor using other than hook-and-line or pot gear departs a reporting area, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after departing a reporting area but prior to checking-in another reporting area.

(B) *Mothership or buying station delivering to a mothership*—(i) If a mothership or buying station delivering to a mothership completes receipt of groundfish, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after departing a reporting area.

(ii) If a mothership is checked-in to multiple reporting areas, the operator must submit by fax a check-out report for each reporting area.

(C) *Shoreside processor.* If a shoreside processor, the manager:

(*1*) Must submit by fax a check-out report to the Regional Administrator within 48 hours after the end of the applicable weekly reporting period that a shoreside processor ceases to process groundfish for the fishing year.

(*2*) May submit by fax a check-out report to the Regional Administrator when receipt or processing of groundfish is temporarily halted during the fishing year for a period of at least two weekly reporting periods.

(D) *Buying station delivering to a shoreside processor.*

(*1*) If a land-based buying station delivering to a shoreside processor, the manager:

(*i*) Must submit by fax a check-out report to the Regional Administrator within 24 hours after delivery of groundfish ceases for the fishing year.

(*ii*) May submit by fax a check-out report to the Regional Administrator when receipt of groundfish is temporarily halted during the fishing year for a period of at least two weekly reporting periods.

* * * * *

(3) *General information.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher/processor, mothership, or buying station delivering to a mothership or the manager of a shoreside processor or buying station delivering to a shoreside processor must record:

(i) *BEGIN message*—(A) *Mothership.*

(*1*) Date and time that receipt of groundfish begins.

(*2*) Position coordinates where groundfish receipt begins.

(*3*) Reporting area code where groundfish receipt begins and whether mothership is receiving groundfish in the COBLZ or RKCSA area.

(*4*) Primary and secondary species expected to be received next week. A change in intended target species within the same reporting area does not require a new BEGIN message.

(B) *Catcher/processor.* (*1*) Date and time that gear is deployed.

(*2*) Position coordinates where gear is set.

(*3*) Reporting area code of gear deployment begins and whether catcher/processor is located in the COBLZ or RKCSA area.

(*4*) Primary and secondary species expected to be harvested next week. A change in intended target species within the same reporting area does not require a new BEGIN message.

(C) *Shoreside processor.* (*1*) Date the facility will begin to receive groundfish.

(*2*) Whether checking in for the first time at the beginning of the fishing year or checking in to restart receipt and processing of groundfish after filing a check-out report.

(D) *Buying station.* (*1*) If delivering to a mothership, reporting area code where groundfish receipt begins.

(*2*) Date facility will begin to receive groundfish.

(*3*) Whether checking in at the beginning of the fishing year or checking in to restart after filing a check-out report.

(*4*) Intended primary target species expected to be received next week. A change in intended target species within the same reporting area does not require a new BEGIN message.

(ii) *CEASE message*—(A) *Mothership.* Date, time and position coordinates where the last receipt of groundfish was made.

(B) *Catcher/processor.* Date, time and position coordinates where the vessel departed the reporting area.

(C) *Shoreside processor.* Date that receipt of groundfish ceased.

(D) *Buying station.* (*1*) If delivering to a mothership, date, time and position coordinates where the vessel departed the reporting area.

(*2*) If delivering to a shoreside processor, date that receipt of groundfish ceased.

(iii) *Fish or fish product held at plant.* The manager of a shoreside processor must report the weight of all fish or fish products held at the plant in pounds or to the nearest 0.001 mt by species and product codes on each check-in report and on each check-out report.

(i) * * *

(3) * * *

(i) *General.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher/processor or mothership, or manager of a shoreside processor must record the date the WPR was completed and the primary and secondary target codes for next week.

(ii) *Landings information.* The manager of a shoreside processor must report landings information as described in paragraph (a)(8) of this section, except that each groundfish landing must be reported only in metric tons to at least the nearest 0.001 mt.

* * * * *

(v) *Catcher vessel delivery information.* The operator of a mothership or manager of a shoreside processor must list the ADF&G fish ticket numbers issued to catcher vessels for the weekly reporting period, including the fish ticket numbers issued by an associated buying station.

(j) * * *

(4) *Information required.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher/processor or mothership, or manager of a shoreside processor must record on each page:

(i) *Landings information.* The manager of a shoreside processor must report landings information as described in paragraph (a)(8) of this section, except that each groundfish landing must be reported only in metric tons to at least the nearest 0.001 mt.

(ii) *Product information.* The operator of a mothership or catcher/processor must report product information as described in paragraph (a)(9) of this section, except that each groundfish product must be reported only in metric tons to at least the nearest 0.001 mt.

(iii) *Discard or donation information.* The operator of a mothership or catcher/processor or the manager of a shoreside processor must report discarded or donated species information as described in paragraph (a)(10) of this section, except that each groundfish or herring discard or donation must be reported only in metric tons to at least the nearest 0.001 mt.

* * * * *

(m) *Consolidated weekly ADF&G fish tickets from motherships.*

(1) *Requirement.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a mothership must ensure that the combined catch for each catcher vessel is summarized at the end of each weekly

reporting period by species on a minimum of one ADF&G groundfish fish ticket when the mothership receives any groundfish from a catcher vessel which is issued a Federal fisheries permit under § 679.4. (An ADF&G fish ticket is further described at Alaska Administrative Code, 5 AAC Chapter 39.130) (see § 679.3).

(2) *Information required.*

(i) The operator of a mothership must ensure that the following information is imprinted or written legibly on the consolidated weekly ADF&G fish ticket from the catcher vessel operator's CFEC permit card in order to describe the CFEC permit holder:

(A) *Vessel name.* Name of the catcher vessel delivering the groundfish.

(B) *Name.* Name of permit holder.

(C) *Permit number.* CFEC permit number.

(D) *ADF&G No.* ADF&G catcher vessel number.

(ii) The operator of a mothership must ensure that the following information is imprinted or written legibly on the consolidated weekly ADF&G fish ticket from the mothership's CFEC processor plate card in order to describe the mothership:

(A) *Proc. Code.* ADF&G processor code of mothership.

(B) *Company.* Identification of mothership.

(iii) The operator of a mothership must record on the consolidated weekly ADF&G groundfish fish ticket the following information obtained from the catcher vessel operator:

(A) *ADF&G No.* The ADF&G number of the catcher vessel delivering fish to the mothership, if the catcher vessel is different from the vessel identified in the CFEC permit card.

(B) *Date landed.* The week-ending date of the week during which the mothership received the groundfish from the catcher vessel.

(D) *Port of landing or vessel transshipped to.* ''FLD,'' a code which means floating processor.

(E) *Type of gear used.* Write in one of the following gear types used by the catcher vessel to harvest groundfish received:

(*1*) Hook and line.

(*2*) Pot.

(*3*) Nonpelagic trawl.

(*4*) Pelagic trawl.

(*5*) Jig/troll.

(*6*) Other.

(iv) The operator of a mothership is responsible for ensuring that the following information is recorded on an ADF&G fish ticket for each catcher vessel:

(A) *Code.* Species code for each species from Table 2 to this part, except do not use species codes 144, 168, 169, or 171.

(C) *Stat Area.* ADF&G 6-digit statistical area in which groundfish were harvested. These statistical areas are defined in a set of charts which may be obtained at no charge from Alaska Commercial Fisheries Management & Development Division, Department of Fish and Game, 211 Mission Road, Kodiak, Alaska 99615–6399.

(D) *Condition Code.* The product code from Table 1 to this part which describes the condition of the fish received by the mothership from the catcher vessel. In most cases, this will be product code 1, whole fish.

(E) *Pounds.* The landed weight of each species to the nearest pound.

(F) *Permit holder's signature.* The signature of the catcher vessel permit holder.

(G) *Fish received by.* The signature of the mothership operator.

(3) *Time limit and submittal.*

(i) The operator of a mothership must complete the consolidated weekly ADF&G groundfish fish ticket for each catcher vessel by 1200 hours, A.l.t., on Tuesday following the end of the applicable weekly reporting period.

(ii) The operator of a mothership must submit the consolidated weekly ADF&G groundfish fish tickets to Alaska Commercial Fisheries Management & Development Division, Department of Fish and Game, 211 Mission Road, Kodiak, Alaska 99615–6399, within 30 days after landings are received.

6. In § 679.7, paragraphs (a)(1) and (a)(2) are revised; the heading of paragraph (a)(5) is revised; and paragraphs (a)(15) and (a)(16) are added to read as follows:

**§ 679.7 Prohibitions.**

* * * * *

(a) * * *

(1) *Federal fisheries permit.* Fish for groundfish in the GOA or BSAI with a vessel of the United States that does not have on board a valid Federal fisheries permit issued pursuant to § 679.4.

(2) *Inseason action or adjustment.* Conduct any fishing contrary to notification of inseason action or adjustment issued under § 679.20, § 679.21, or § 679.25.

* * * * *

(5) *Prohibited species bycatch rate standard.* * * *

* * * * *

(15) *Federal Processor Permit.* Receive or process groundfish harvested in the GOA or BSAI by a shoreside processor or vessel of the United States operating solely as a mothership in Alaska State waters that does not have on site a valid Federal processor permit issued pursuant to § 679.4(f).

(16) *Retention of groundfish bycatch species.* Exceed the maximum retainable groundfish bycatch amount established under § 679.20(e).

* * * * *

7. In § 679.20, paragraphs (d)(1)(ii)(A), (g)(2)(iii), and (g)(3) introductory text are revised to read as follows:

**§ 679.20 General limitations.**

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(A) *Inseason adjustments.* The category allocations or apportionments established under paragraph (c) of this section may be revised by inseason adjustments, as defined at § 679.25, for a given species or species group or pollock allowance, as identified by regulatory area, subarea, or district, and, if applicable, as further identified by gear type.

* * * * *

(g) * * *

(2) * * *

(iii) The primary pollock product must be distinguished from ancillary pollock products in the DCPL required under § 679.5(a)(9).

(3) *Pollock product recovery rates (PRRs).* Use the product types and standard PRRs for pollock found in Table 3 of this part to calculate round-weight equivalents for pollock for purposes of this paragraph (g).

* * * * *

8. In § 679.21, as proposed to be amended at 62 FR 43307, (August 13, 1997) paragraphs (e)(7)(iv)(B), (e)(7)(vii)(B), and (e)(7)(viii)(B) are removed; and paragraphs (e)(7)(iv)(A), (e)(7)(vii)(A) and, (e)(7)(viii)(A) are redesignated as paragraph (e)(7)(iv), (e)(7)(vii) and (e)(7)(viii) respectively, and revised to read as follows:

**§ 679.21 Prohibited species bycatch management.**

* * * * *

(e) * * *

(7) * * *

(iv) *COBLZ.* Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the COBLZ bycatch allowance, or seasonal apportionment thereof, of *C. Opilio* specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the **Federal Register** the closure of the COBLZ, as defined in

Figure 13 of this part, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

* * * * *

(vii) *Chum salmon.* If the Regional Administrator determines that 42,000 non-chinook salmon have been caught by vessels using trawl gear during August 15 through October 14 in the CVOA defined under § 679.22(a)(5) and in Figure 2 of this part, NMFS will prohibit fishing with trawl gear for the remainder of the period September 1 through October 14 in the Chum Salmon Savings Area as defined in Figure 9 of this part.

(viii) *Chinook salmon.* When the Regional Administrator determines that 48,000 chinook salmon have been caught by vessels using trawl gear in the BSAI during the time period from January 1 through April 15, NMFS will prohibit fishing with trawl gear for the remainder of that period within the Chinook Salmon Savings Area defined in Figure 8 of this part.

* * * * *

9. Section 679.22 is amended to read as follows by: Revising paragraphs (a)(3), (a)(6), and (a)(9); by amending the cross-reference in paragraphs (a)(7)(ii), (a)(8)(ii), and (b)(2)(ii) from ''§ 679.20'' to read ''§ 679.20(d)''; and by adding a heading to paragraph (a)(10).

**§ 679.22 Closures.**

(a) * * *

(3) *Red King Crab Savings Area (RKCSA).* Directed fishing for groundfish by vessels using trawl gear other than pelagic trawl gear is prohibited at all times, except as provided at § 679.21(e)(3)(ii)(B), in that part of the Bering Sea subarea defined as RKCSA in Figure 11 of this part.

* * * * *

(6) *Pribilof Island Area Habitat Conservation Zone.* Trawling is prohibited at all times in the area defined in Figure 10 of this part as Pribilof Island Area Habitat Conservation Zone.

* * * * *

(9) *Nearshore Bristol Bay Trawl Closure.* Directed fishing for groundfish by vessels using trawl gear in Bristol Bay, as described in the current edition of NOAA chart 16006, is closed at all times in the area east of 162°00′ W. long., except that the Nearshore Bristol Bay Trawl Area defined in Figure 12 is open to trawling from 1200 hours A.l.t., April 1 to 1200 hours A.l.t., June 15 of each year.

(10) *Chum Salmon Savings Area.*

* * *

* * * * *

10. Section 679.23 is amended to read as follows by: Revising the headings of paragraphs (a), (d), and (e), and by revising the term ''Western Alaska Community Development Quota'' and replacing it with ''CDQ'' in paragraphs (e)(2)(ii)(C) and (D).

**§ 679.23 Seasons.**

(a) *Groundfish, general.* * * *

* * * * *

(d) *GOA groundfish seasons.* * * *

(e) *BSAI groundfish seasons.* * * *

* * * * *

(g) * * *

(3) Catches of sablefish in excess of the maximum retainable bycatch amounts and catches made without IFQ must be treated in the same manner as prohibited species as defined at § 679.21(b).

11. Section 679.41 is amended by adding headings to paragraphs (e)(1) through (3) to read as follows:

**§ 679.41 Transfer of quota shares and IFQ.**

* * * * *

(e) * * *

(1) *General.* * * *

(2) *Sablefish.* * * *

(3) *Halibut.* * * *

12. Section 679.42, is amended by adding a new heading to paragraph (c)(2)(i); by revising paragraph (c)(2)(ii); and by adding headings to paragraphs (c)(2)(i) and (c)(2)(ii) to read as follows:

**§ 679.42 Limitations on use of QS and IFQ.**

* * * * *

(c) * * *

(2) * * *

(i) *Sablefish product.* * * *

(ii) *Halibut product.* For halibut product, multiplying the scale weight actually reported at the time of landing by the conversion factor found in Table 3 of this part that corresponds to the product code reported in the IFQ landing report.

13. In § 679.61, the introductory paragraph is revised to read as follows:

**§ 679.61 Registration areas.**

For the purpose of managing the scallop fishery, the Federal waters off Alaska and adjacent State waters are divided into nine scallop registration areas. Three scallop registration areas are further subdivided into districts. The scallop registration areas and districts are defined in Figure 14 of this part.

* * * * *

14. Part 679 is amended by revising Tables 1, 2, and 3 to this part and Figures 2 and 7 to this part and by adding Figures 8 through 16 to this part to read as follows:

TABLE 1.—PRODUCT CODES

| Fish product code/description |
|---|
| 1. Whole fish/food fish. |
| 2. Whole fish/bait. Processed for bait. |
| 3. Bled only. Throat, or isthmus, slit to allow blood to drain. |
| 4. Gutted, head on. Belly slit and viscera removed. |
| 5. Gutted, head off. IFQ Pacific halibut only. |
| 6. Head and gutted, with roe. |
| 7. Headed and gutted, Western cut. Head removed just in front of the collar bone, and viscera removed. |
| 8. Headed and gutted, Eastern cut. Head removed just behind the collar bone, and viscera removed. |
| 10. Headed and gutted, tail removed. Head removed usually in front of collar bone, and viscera and tail removed. |
| 11. Kirimi. Head removed either in front or behind the collar bone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak. |
| 12. Salted and split. Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted. |
| 13. Wings. On skates, side fins are cut off next to body. |
| 14. Roe. Eggs, either loose or in sacs, or skeins. |
| 15. Pectoral girdle. Collar bone and associated bones, cartilage and flesh. |
| 16. Heads. Heads only, regardless where severed from body. |
| 17. Cheeks. Muscles on sides of head. |
| 18. Chins. Lower jaw (mandible), muscles, and flesh. |
| 19. Belly. Flesh in region of pelvic and pectoral fins and behind head. |

TABLE 1.—PRODUCT CODES—Continued

| Fish product code/description |
|---|
| 20. Fillets with skin and ribs. Meat and skin with ribs attached, from sides of body behind head and in front of tail. |
| 21. Fillets with skin, no ribs. Meat and skin with ribs removed, from sides of body behind head and in front of tail. |
| 22. Fillets with ribs and no skin. Meat with ribs with skin removed, from sides of body behind head and in front of tail. |
| 23. Fillets, skinless/boneless. Meat with both skin and ribs removed, from sides of body behind head and in front of tail. |
| 24. Deep-skin fillet. Meat with skin, adjacent meat with silver lining, and ribs removed from sides of body behind head and in front of tail, resulting in thin fillets. |
| 30. Surimi. Paste from fish flesh and additives. |
| 31. Minced. Ground flesh. |
| 32. Fish meal. Meal from fish and fish parts, including bone meal. |
| 33. Fish oil. Rendered oil. |
| 34. Milt. (in sacs, or testes). |
| 35. Stomachs. Includes all internal organs. |
| 36. Octopus/squid mantles. Flesh after removal of viscera and arms. |
| 37. Butterfly, no backbone. Head removed, belly slit, viscera and most of backbone removed; fillets attached. |
| 39. Bones (if meal, report as 32). |
| 51. Whole fish/food fish with ice and slime. IFQ sablefish only. |
| 54. Gutted, head on, with ice and slime. Belly slit and visera removed. IFQ Pacific halibut and sablefish only. |
| 55. Gutted, head off, with ice and slime. IFQ Pacific halibut only. |
| 57. Headed and gutted, Western cut, with ice and slime. IFQ sablefish only. |
| 58. Headed and gutted, Eastern cut, with ice and slime. IFQ sablefish only. |
| 86. Donated Salmon. Includes salmon retained and donated under Salmon Donation Program. |
| 97. Other retained product |
| DISCARD PRODUCT CODES |
| 92. Discard, bait. Whole fish used as bait on board vessel. |
| 94. Discard, consumption. Fish or fish products eaten on board or taken off the vessel for personal use. |
| 96. Previously discarded fish (decomposed) taken with trawl gear in current fishing efforts. Discarded. |
| 98. Discard, at sea. Whole groundfish and prohibited species discarded by catcher vessels, Catcher/Processors, Motherships, or Buying Stations delivering to Motherships. |
| 99. Discard, dockside. Discard after delivery and before processing; Discard, at plant. In-plant discard of whole groundfish and prohibited species by Shoreside Processors and Buying Stations delivering to Shoreside Processors before and during processing. |
| M99 Discard, off site transfer. Discarded fish that are transferred to any off site facility for reduction to fish meal, fish oil and/or discard at sea. |
| PRODUCT DESIGNATION |
| A Ancillary. Product made in addition to a primary product from the same fish. |
| P Primary. Product made from each fish with the highest recovery rate. |
| R Reprocessed. Product that results from processing a previously reported product. |

TABLE 2.—SPECIES CODES

| Code/Species |
|---|
| 110. Pacific cod. |
| 120. Miscellaneous flatfish (all flatfish without separate codes). |
| 121. Arrowtooth flounder and/or Kamchatka flounder. |
| 122. Flathead sole. |
| 123. Rock sole. |
| 124. Dover sole. |
| 125. Rex sole. |
| 126. Butter sole. |
| 127. Yellowfin sole. |
| 128. English sole. |
| 129. Starry flounder. |
| 131. Petrale sole. |
| 132. Sand sole. |
| 133. Alaska Plaice flounder. |
| 134. Greenland turbot. |
| 135. Greenstripe rockfish. |
| 136. Northern rockfish. |
| 137. Bocaccio rockfish. |
| 138. Copper rockfish. |
| 141. Pacific ocean perch (S. alutus only) . |
| 142. Black rockfish. |
| 143. Thornyhead rockfish (all Sebastolobus species) . |
| 145. Yelloweye rockfish. |
| 146. Canary rockfish. |
| 147. Quillback rockfish. |
| 148. Tiger rockfish. |
| 149. China rockfish. |
| 150. Rosethorn rockfish. |
| 151. Rougheye rockfish. |
| 152. Shortraker rockfish. |

TABLE 2.—SPECIES CODES—Continued

| Code/Species |
|---|
| 153. Redbanded rockfish. |
| 154. Dusky rockfish. |
| 155. Yellowtail rockfish. |
| 156. Widow rockfish. |
| 157. Silvergray rockfish. |
| 158. Redstripe rockfish. |
| 159. Darkblotched rockfish. |
| 160. Sculpins. |
| 166. Sharpchin rockfish. |
| 167. Blue rockfish. |
| 175. Yellowmouth rockfish. |
| 176. Harlequin rockfish. |
| 177. Blackgill rockfish. |
| 178. Chilipepper rockfish. |
| 179. Pygmy rockfish. |
| 181. Shortbelly rockfish. |
| 182. Splitnose rockfish. |
| 183. Stripetail rockfish. |
| 184. Vermilion rockfish. |
| 185. Aurora rockfish. |
| 193. Atka mackerel. |
| 207. Gunnels. |
| 208. Pricklebacks. |
| 209. Bristlemouths, lightfishes, and anglemouths (Gonostomatidae) . |
| 210. Pacific Sand fish. |
| 270. Pollock. |
| 510. Smelt. |
| 511. Eulachon. |
| 516. Capelin. |
| 689. Sharks. |
| 700. Skates. |
| 710. Sablefish. |
| 772. Laternfishes. |
| 773. Deep-sea smelts (Bathylagidae). |
| 774. Pacific Sand lance. |
| 800. Krill. |
| 870. Octopus. |
| 875. Squid. |
| 888. Mixed species tote (for use on Product Transfer Report only). |
| GROUP CODES. These group codes may be used if individual species cannot be identified. |
| 144. Slope rockfish (aurora, blackgill, Bocaccio, redstripe, silvergray, chilipepper, darkblotched, greenstriped, harlequin, pygmy, shortbelly, splitnose, stripetail, vermillion, yellowmouth, sharpchin). |
| 168. Demersal shelf rockfish (china, copper, quillback, rosethorn, tiger, yelloweye, canary). |
| 169. Pelagic shelf rockfish (dusky, yellowtail, widow). |
| 171. Shortraker/rougheye rockfish. |
| PROHIBITED SPECIES CODES |
| 000. Unspecified salmon. |
| 200. Pacific halibut. |
| 235. Pacific herring (Family of Clupeidae). |
| 410. Salmon, Chinook. |
| 420. Salmon, Sockeye. |
| 430. Salmon, Coho. |
| 440. Salmon, Pink. |
| 450. Salmon, Chum. |
| 540. Steelhead trout. |
| 920. Unspecified king crab. |
| 921. Red king crab. |
| 922. Blue king crab. |
| 923. Gold/brown king crab. |
| 930. Unspecified tanner crab. |
| 931. Bairdi tanner crab. |
| 932. Opilio tanner crab. |

TABLE 3.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT

| FMP species | Product code | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Wings | Species code | Whole food fish | Whole bait fish | Bled | Gutted head on | Gutted head off | H&G with roe | H&G western cut | H&G eastern cut | H&G w/o tail | Kirimi | Salted and split | |
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 10 | 11 | 12 | 13 |
| PACIFIC COD | 110 | 1.00 | 1.00 | 0.98 | 0.85 | ..... | 0.63 | 0.57 | 0.47 | 0.44 | ..... | 0.45 | ..... |
| ARROWTOOTH FLOUNDER | 121 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| ROCKFISH[1] | ..... | 1.00 | 1.00 | 0.98 | 0.88 | ..... | ..... | 0.60 | 0.50 | ..... | ..... | ..... | ..... |
| SCULPINS | 160 | 1.00 | 1.00 | 0.98 | 0.87 | ..... | ..... | 0.50 | 0.40 | ..... | ..... | ..... | ..... |
| ATKA MACKEREL | 193 | 1.00 | 1.00 | 0.98 | 0.87 | ..... | 0.67 | 0.64 | 0.61 | ..... | ..... | ..... | ..... |
| POLLOCK | 270 | 1.00 | 1.00 | 0.98 | 0.80 | ..... | 0.70 | 0.65 | 0.56 | 0.50 | ..... | ..... | ..... |
| SMELTS | 510 | 1.00 | 1.00 | 0.98 | 0.82 | ..... | ..... | 0.71 | ..... | ..... | ..... | ..... | ..... |
| EULACHON | 511 | 1.00 | 1.00 | 0.98 | 0.82 | ..... | ..... | 0.71 | ..... | ..... | ..... | ..... | ..... |
| CAPELIN | 516 | 1.00 | 1.00 | 0.98 | 0.89 | ..... | ..... | 0.78 | ..... | ..... | ..... | ..... | ..... |
| SHARKS | 689 | 1.00 | 1.00 | 0.98 | 0.83 | ..... | ..... | 0.72 | ..... | ..... | ..... | ..... | ..... |
| SKATES | 700 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | ..... | 0.32 | ..... | ..... | ..... | 0.32 | ..... |
| SABLEFISH | 710 | 1.00 | 1.00 | 0.98 | 0.89 | ..... | ..... | 0.68 | 0.63 | 0.50 | ..... | ..... | ..... |
| IFQ SABLEFISH | 710 | 1.00 | 1.00 | 0.98 | 0.89 | ..... | ..... | 0.68 | 0.63 | 0.50 | ..... | ..... | ..... |
| OCTOPUS | 870 | 1.00 | 1.00 | 0.98 | 0.69 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Target species categories GOA only: | | | | | | | | | | | | | |
| DEEP WATER FLATFISH | 118 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| FLATHEAD SOLE | 122 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| REX SOLE | 125 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| SHALLOW WATER FLATFISH | 119 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| THORNYHEAD ROCKFISH | 143 | 1.00 | 1.00 | 0.98 | 0.88 | ..... | 0.55 | 0.60 | 0.50 | ..... | ..... | ..... | ..... |
| Target species categories BSAI only: | | | | | | | | | | | | | |
| OTHER FLATFISH | 120 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| ROCK SOLE | 123 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| YELLOWFIN SOLE | 127 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... | ..... |
| GREENLAND TURBOT | ..... | 134 | 1.00 | 1.00 | 0.98 | 0.90 | ..... | 0.80 | 0.72 | 0.65 | 0.62 | 0.48 | ..... |
| SQUID | 875 | 1.00 | 1.00 | 0.98 | 0.69 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Conversion rates for Pacific halibut: | | | | | | | | | | | | | |
| PACIFIC HALIBUT | 200 | ..... | ..... | ..... | 0.90 | 1.0 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |

TABLE 3.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT

| FMP species | Product code | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Wings | Species code | Roe | Pectoral girdle | Heads | Cheeks | Chins | Belly | Fillets w/skin and ribs | Fillets skin on no ribs | Fillets w/ribs no skin | Fillets sknless/ boneless | Fillets deep skin | Surimi | Mince |
| | | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 30 | 31 |
| PACIFIC COD | 110 | 0.05 | 0.05 | ..... | 0.05 | ..... | 0.01 | 0.45 | 0.35 | 0.25 | 0.25 | ..... | 0.15 | 0.5 |
| ARROWTOOTH FLOUNDER | 121 | 0.08 | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| ROCKFISH[1] | ..... | ..... | ..... | 0.15 | 0.05 | 0.05 | 0.10 | 0.40 | 0.30 | 0.33 | 0.25 | ..... | ..... | ..... |
| SCULPINS | 160 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| ATKA MACKEREL | 193 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.15 | ..... |
| POLLOCK | 270 | 0.07 | ..... | 0.15 | ..... | ..... | ..... | 0.35 | 0.30 | 0.30 | 0.21 | 0.16 | [2]0.16 | 0.22 |
| SMELTS | 510 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.38 | ..... | ..... | ..... | [3]0.17 | ..... |
| EULACHON | 511 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.38 | ..... | ..... | ..... | ..... | ..... |
| CAPELIN | 516 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| SHARKS | 689 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.30 | 0.30 | 0.25 | ..... | ..... | ..... |
| SKATES | 700 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| SABLEFISH | 710 | ..... | ..... | ..... | 0.05 | ..... | ..... | 0.35 | 0.30 | 0.30 | 0.25 | ..... | ..... | ..... |
| IFQ SABLEFISH | 710 | ..... | ..... | ..... | 0.05 | ..... | ..... | 0.35 | 0.30 | 0.30 | 0.25 | ..... | ..... | ..... |
| OCTOPUS | 870 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Target species categories at GOA only: | | | | | | | | | | | | | | |
| DEEP WATER FLATFISH | 118 | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| FLATHEAD SOLE | 122 | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| REX SOLE | 125 | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| SHALLOW WATER FLATFISH | 119 | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| THORNYHEAD ROCKFISH | 143 | ..... | ..... | 0.20 | 0.05 | 0.05 | 0.05 | 0.40 | 0.30 | 0.35 | 0.25 | ..... | ..... | ..... |
| Target species categories at BSAI only: | | | | | | | | | | | | | | |
| OTHER FLATFISH | 120 | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| ROCK SOLE | 123 | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| YELLOWFIN SOLE | 127 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | 0.18 |
| GREENLAND TURBOT | 134 | ..... | ..... | ..... | ..... | ..... | ..... | 0.32 | 0.27 | 0.27 | 0.22 | ..... | ..... | ..... |
| SQUID | 875 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Conversion rates for Pacific halibut: | | | | | | | | | | | | | | |

TABLE 3.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT—Continued

| FMP species | Product code | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Wings | Species code | Roe | Pectoral girdle | Heads | Cheeks | Chins | Belly | Fillets w/skin and ribs | Fillets skin on no ribs | Fillets w/ribs no skin | Fillets sknless/ boneless | Fillets deep skin | Surimi | Mince |
| | | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 30 | 31 |
| PACIFIC HALIBUT ..... | 200 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |

TABLE 3.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT

| FMP species | Product code | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Wings | Species code | Meal | Oil | Milt | Stomachs | Mantles | Butterfly backbone removed | Whole fish w/ I&S | Gutted head on W/ I&S | Gutted head off w/ I&S | H&G western w/ I&S | H&G eastern w/I&S | Decomposed fish | Discards |
| | | 32 | 33 | 34 | 35 | 36 | 37 | 51 | 54 | 55 | 57 | 58 | 96 | 92, 94, 98, 99, M99 |
| PACIFIC COD ..... | 110 | 0.17 | ..... | ..... | ..... | ..... | 0.43 | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| ARROWTOOTH FLOUNDER ..... | 121 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| ROCKFISH[1] ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| SCULPINS ..... | 160 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| ATKA MACKEREL ..... | 193 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| POLLOCK ..... | 270 | 0.17 | ..... | ..... | ..... | ..... | 0.43 | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| SMELTS ..... | 510 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| EULACHON ..... | 511 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| CAPELIN ..... | 516 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| SHARKS ..... | 689 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| SKATES ..... | 700 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| SABLEFISH ..... | 710 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| IFQ SABLEFISH ..... | 710 | 0.17 | ..... | ..... | ..... | ..... | ..... | 1.02 | 0.91 | ..... | 0.70 | 0.65 | 0.00 | 1.00 |
| OCTOPUS ..... | 870 | 0.17 | ..... | ..... | ..... | 0.85 | 1.00 | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| Target species categories at GOA only: | | | | | | | | | | | | | | |
| DEEP WATER FLATFISH ..... | 118 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| FLATHEAD SOLE ..... | 122 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| REX SOLE ..... | 125 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| SHALLOW WATER FLATFISH ..... | 119 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| THORNYHEAD ROCKFISH ..... | 143 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| Target species categories at BSAI only: | | | | | | | | | | | | | | |
| OTHER FLATFISH ..... | 120 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| ROCK SOLE ..... | 123 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| YELLOWFIN SOLE ..... | 127 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| GREENLAND TURBOT | 134 | 0.17 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| SQUID ..... | 875 | 0.17 | ..... | ..... | ..... | 0.75 | 1.00 | ..... | ..... | ..... | ..... | ..... | 0.00 | 1.00 |
| Conversion rates for Pacific halibut: | | | | | | | | | | | | | | |
| PACIFIC HALIBUT ..... | 200 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 0.88 | 0.98 | ..... | ..... | ..... | ..... |

[1] Rockfish means all species of *Sebastes* and *Sebastolobus*.
[2] Standard pollock surimi rate during January through June.
[3] Standard pollock surimi rate during July through December.

TABLE 4.—BERING SEA SUBAREA STELLER SEA LION PROTECTION AREAS

[3-nm NO TRANSIT ZONES described at § 227.12(a)(2) of this title]

| Island | From | | To | |
|---|---|---|---|---|
| | Latitude | Longitude | Latitude | Longitude |
| a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm): | | | | |
| Sea Lion Rocks ..... | 55°28.0′ N | 163°12.0′ W | | |
| Ugamak Island ..... | 54°14.0′ N | 164°48.0′ W | 54°13.0′ N | 164°48.0′ W |
| Akun Island ..... | 54°18.0′ N | 165°32.5′ W | 54°18.0′ N | 165°31.5′ W |
| Akutan Island ..... | 54°03.5′ N | 166°00.0′ W | 54°05.5′ N | 166°05.0′ W |
| Bogoslof Island ..... | 53°56.0′ N | 168°02.0′ W | | |
| Ogchul Island ..... | 53°00.0′ N | 168°24.0′ W | | |
| Adugak Island ..... | 52°55.0′ N | 169°10.5′ W | | |

TABLE 4.—BERING SEA SUBAREA STELLER SEA LION PROTECTION AREAS—Continued

[3-nm NO TRANSIT ZONES described at § 227.12(a)(2) of this title]

| Island | From | | To | |
|---|---|---|---|---|
| | Latitude | Longitude | Latitude | Longitude |
| Walrus Island | 57°11.0′ N | 169°56.0′ W | | |
| b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under part 679, Trawling Prohibited Within 20 nm): | | | | |
| Sea Lion Rocks | 55°28.0′ N | 163°12.0′ W | | |
| Akun Island | 54°18.0′ N | 165°32.5′ W | 54°18.0′ N | 165°31.5′ W |
| Akutan Island | 54°03.5′ N | 166°00.0′ W | 54°05.5′ N | 166°05.0′ W |
| Ugamak Island | 54°14.0′ N | 164°48.0′ W | 54°13.0′ N | 164°48.0′ W |
| Seguam Island | 52°21.0′ N | 172°35.0′ W | 52°21.0′ N | 172°33.0′ W |
| Agligadak Island | 52°06.5′ N | 172°54.0′ W | | |

**Note:** The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 5.—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS

[3-nm NO TRANSIT ZONES described at § 227.12(a)(2) of this title]

| Island | From | | To | |
|---|---|---|---|---|
| | Latitude | Longitude | Latitude | Longitude |
| a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm): | | | | |
| Yunaska Island | 52°42.0′ N | 170°38.5′ W | 52°41.0′ N | 170°34.5′ W |
| Seguam Island | 52°21.0′ N | 172°35.0′ W | 52°21.0′ N | 172°33.0′ W |
| Agligadak Island | 52°06.5′ N | 172°54.0′ W | | |
| Kasatochi Island | 52°10.0′ N | 175°31.0′ W | 52°10.5′ N | 175°29.0′ W |
| Adak Island | 51°36.5′ N | 176°59.0′ W | 51°38.0′ N | 176°59.5′ W |
| Gramp Rock | 51°29.0′ N | 178°20.5′ W | | |
| Tag Island | 51°33.5′ N | 178°34.5′ W | | |
| Ulak Island | 51°20.0′ N | 178°57.0′ W | 51°18.5′ N | 178°59.5′ W |
| Semisopochnoi | 51°58.5′ N | 179°45.5′ E | 51°57.0′ N | 179°46.0′ E |
| Semisopochnoi | 52°01.5′ N | 179°37.5′ E | 52°01.5′ N | 179°39.0′ E |
| Amchitka Island | 51°22.5′ N | 179°28.0′ E | 51°21.5′ N | 179°25.0′ E |
| Amchitka Is/Column Rocks | 51°32.5′ N | 178°49.5′ E | | |
| Ayugadak Point | 51°45.5′ N | 178°24.5′ E | | |
| Kiska Island | 51°57.5′ N | 177°21.0′ E | 51°56.5′ N | 177°20.0′ E |
| Kiska Island | 51°52.5′ N | 177°13.0′ E | 51°53.5′ N | 177°12.0′ E |
| Buldir Island | 52°20.5′ N | 175°57.0′ E | 52°23.5′ N | 175°51.0′ E |
| Agattu Is./Gillion Pt | 52°24.0′ N | 173°21.5′ E | | |
| Agattu Island | 52°23.5′ N | 173°43.5′ E | 52°22.0′ N | 173°41.0′ E |
| Attu Island | 52°54.5′ N | 172°28.5′ E | 52°57.5′ N | 172°31.5′ E |
| b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under part 679.20. Trawling Prohibited Within 20 nm): | | | | |
| Seguam Island | 52°21.0′ N | 172°35.0′ W | 52°21.0′ N | 172°33.0′ W |
| Agligadak Island | 52°06.5′ N | 172°54.0′ W | | |

**Note:** Each rookery extends in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 6.—GULF OF ALASKA STELLER SEA LION PROTECTION AREAS

[3-nm NO TRANSIT ZONES described at § 227.12(a)(2) of this title]

| Island | From | | To | |
|---|---|---|---|---|
| | Latitude | Longitude | Latitude | Longitude |
| a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm): | | | | |
| Outer Island | 59°20.5′ N | 150°23.0′ W | 59°21.0′ N | 150°24.5′ W |
| Sugarloaf Island | 58°53.0′ N | 152°02.0′ W | | |
| Marmot Island | 58°14.5′ N | 151°47.5′ W | 58°10.0′ N | 151°51.0′ W |
| Chirikof Island | 55°46.5′ N | 155°39.5′ W | 55°46.5′ W | 155°43.0′ W |
| Chowiet Island | 56°00.5′ N | 156°41.5′ W | 56°00.5′ N | 156°42.0′ W |
| Atkins Island | 55°03.5′ N | 159°18.5′ W | | |
| Chernabura Island | 54°47.5′ N | 159°31.0′ W | 54°45.5′ N | 159°33.5′ W |
| Pinnacle Rock | 54°46.0′ N | 161°46.0′ W | | |
| Clubbing Rocks-N | 54°43.0′ N | 162°26.5′ W | | |

TABLE 6.—GULF OF ALASKA STELLER SEA LION PROTECTION AREAS—Continued

[3-nm NO TRANSIT ZONES described at § 227.12(a)(2) of this title]

| Island | From | | To | |
|---|---|---|---|---|
| | Latitude | Longitude | Latitude | Longitude |
| Clubbing Rocks-S | 54°42.0′ N | 162°26.5′ W | | |
| Ugamak Island | 54°14.0′ N | 164°48.0′ W | 54°13.0′ N | 164°48.0′ W |
| Akun Island | 54°18.0′ N | 165°32.5′ W | 54°18.0′ N | 165°31.5′ W |
| Akutan Island | 54°03.5′ N | 166°00.0′ W | 54°05.5′ N | 166°05.0′ W |
| Ogchul Island | 53°00.0′ N | 168°24.0′ W | | |
| b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under part 679.20. Trawling Prohibited Within 20 nm): | | | | |
| Akun I | 54°18.0′ N | 165°32.5′ W | 54°18.0′ N | 165°31.5′ W |
| Akutan I | 54°03.5′ N | 166°00.0′ W | 54°05.5′ N | 166°05.0′ W |
| Ugamak I | 54°14.0′ N | 164°48.0′ W | 54°13.0′ N | 164°48.0′ W |

**Note:** The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS

[Other communities may also be eligible, but do not appear on this table]

Aleutian Region:
1. Akutan
2. Atka
3. False Pass
4. Nelson Lagoon
5. Nikolski
6. St. George
7. St. Paul

Bering Strait:
1. Brevig Mission
2. Diomede/Inalik
3. Elim
4. Gambell
5. Golovin
6. Koyuk
7. Nome
8. Savoonga
9. Shaktoolik
10. St. Michael
11. Stebbins
12. Teller
13. Unalakleet
14. Wales
15. White Mountain

Bristol Bay:
1. Alegnagik
2. Clark's Point
3. Dillingham

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS—Continued

[Other communities may also be eligible, but do not appear on this table]

4. Egegik
5. Ekuk
6. Manokotak
7. Naknek
8. Pilot Point/Ugashi
9. Port Heiden/Meschick
10. South Naknek
11. Sovonoski/King Salmon
12. Togiak
13. Twin Hills

Southwest Coastal Lowlands:
1. Alakanuk
2. Chefornak
3. Chevak
4. Eek
5. Emmonak
6. Goodnews Bay
7. Hooper Bay
8. Kipnuk
9. Kongiganak
10. Kotlik
11. Kwigillingok
12. Mekoryuk
13. Newtok
14. Nightmute
15. Platinum
16. Quinhagak
17. Scammon Bay

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS—Continued

[Other communities may also be eligible, but do not appear on this table]

18. Sheldon's Point
19. Toksook Bay
20. Tununak
21. Tuntutuliak

TABLE 8.—HARVEST ZONE CODES FOR USE WITH PRODUCT TRANSFER REPORTS AND VESSEL ACTIVITY REPORTS

| Harvest zone | Description |
|---|---|
| A | EEZ off Alaska. |
| D | Donut Hole. |
| F | Foreign Waters other than Russia. |
| I | International waters other than Donut Hole and Seamounts. |
| R | Russian waters. |
| S | Seamounts in international waters. |
| U | U.S. EEZ other than Alaska. |

TABLE 9.—REQUIRED LOGBOOKS, REPORTS AND FORMS FROM PARTICIPANTS IN THE FEDERAL GROUNDFISH FISHERIES

| Name of logbook/form | Catcher-vessel | Catcher-processor | Mothership | Shoreside processor | Buying station |
|---|---|---|---|---|---|
| Daily Fishing Logbook (DFL) | YES | NO | NO | NO | NO |
| Daily Cumulative Production Logbook (DCPL) | NO | YES | YES | YES | NO |
| Daily Cumulative Logbook (DCL) | NO | NO | NO | NO | YES |
| Check-in/Check-out Report | NO | YES | YES | YES | YES |
| U.S. Vessel Activity Report (VAR) | YES | YES | YES | NO | NO |
| Weekly Production Report (WPR) | NO | YES | YES | YES | NO |
| Daily Production Report (DPR)[1] | NO | YES | YES | YES | NO |
| Product Transfer Report (PTR) | NO | YES | YES | YES | NO |

[1] When required by Regional Administrator.

TABLE 10.—CURRENT GULF OF ALASKA RETAINABLE PERCENTAGES

| | Bycatch Species[1] | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Pollock | Pacific Cod | Deep flatfish | Rex Sole | Flathead Sole | Shallow flatfish | Arrowtooth | Sablefish | Aggregated rockfish[2] | DSR SEEO[4] | Atka mackerel | Other species |
| Basis Species[1] | | | | | | | | | | | | |
| Pollock | [3]NA | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | 10 | 20 | 20 |
| Pacific cod | 20 | [3]NA | 20 | 20 | 20 | 20 | 35 | 1 | 5 | 10 | 20 | 20 |
| Deep flatfish | 20 | 20 | [3]NA | 20 | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Rex sole | 20 | 20 | 20 | [3]NA | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Flathead sole | 20 | 20 | 20 | 20 | [3]NA | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Shallow flatfish | 20 | 20 | 20 | 20 | 20 | [3]NA | 35 | 1 | 5 | 10 | 20 | 20 |
| Arrowtooth | 5 | 5 | 0 | 0 | 0 | 0 | [3]NA | 0 | 0 | 0 | 0 | 0 |
| Sablefish | 20 | 20 | 20 | 20 | 20 | 20 | 35 | [3]NA | 15 | 1 | 20 | 20 |
| Pacific Ocean perch | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Shortraker/rougheye | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Other rockfish | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Northern rockfish | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Pelagic rockfish | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| DSR-SEEO | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | [3]NA | 20 | 20 |
| Thornyhead | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 1 | 20 | 20 |
| Atka mackerel | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | 10 | [3]NA | 20 |
| Other species | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | 10 | 20 | [3]NA |
| Aggregated amount non-groundfish species | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | 10 | 20 | 20 |

[1] For definition of species, see Table 1 of the Gulf of Alaska groundfish specifications.
[2] Aggregated rockfish means rockfish of the genera Sebastes and Sebastolobus except in the southeast Outside District where demersal shelf rockfish (DSR) is a separate category.
[3] NA = not applicable.
[4] SEEO = Southeast Outside District.

TABLE 11.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

| | Bycatch species[1] | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Species | Pollock | Pacific cod | Atka mackerel | Arrowtooth | Yellowfin sole | Other flatfish | Rocksole | Flathead sole | Greenland turbot | Sablefish | Aggregated rockfish[2] | Squid | Other |
| BASIS SPECIES[1] | | | | | | | | | | | | | |
| Pollock | [3]NA | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 5 | 20 | 20 |
| Pacific cod | 20 | [3]NA | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 5 | 20 | 20 |
| Atka mackerel | 20 | 20 | [3]NA | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 5 | 20 | 20 |
| Arrowtooth | 0 | 0 | 0 | [3]NA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Yellowfin sole | 20 | 20 | 20 | 35 | [3]NA | 35 | 35 | 35 | 1 | 1 | 5 | 20 | 20 |
| Other flatfish | 20 | 20 | 20 | 35 | 35 | [3]NA | 35 | 35 | 1 | 1 | 5 | 20 | 20 |
| Rocksole | 20 | 20 | 20 | 35 | 35 | 35 | [3]NA | 35 | 1 | 1 | 5 | 20 | 20 |
| Flathead sole | 20 | 20 | 20 | 35 | 35 | 35 | 35 | [3]NA | 35 | 15 | 15 | 20 | 20 |
| Greenland turbot | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | [3]NA | 15 | 15 | 20 | 20 |
| Sablefish | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | [3]NA | 15 | 20 | 20 |
| Other rockfish | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 15 | 20 | 20 |
| Other red rockfish-BS | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 15 | 20 | 20 |
| Pacific Ocean perch | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 15 | 20 | 20 |
| Sharpchin/Northern-AI | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 15 | 20 | 20 |
| Shortraker/Rougheye-AI | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 15 | 20 | 20 |
| Squid | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 5 | [3]NA | 20 |
| Other species | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 5 | 20 | [3]NA |
| Aggregated amount non-groundfish species | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 5 | 20 | 20 |

[1] For definition of species, see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] Aggregated rockfish of the genera Sebastes and Sebastolobus.
[3] NA = not applicable.

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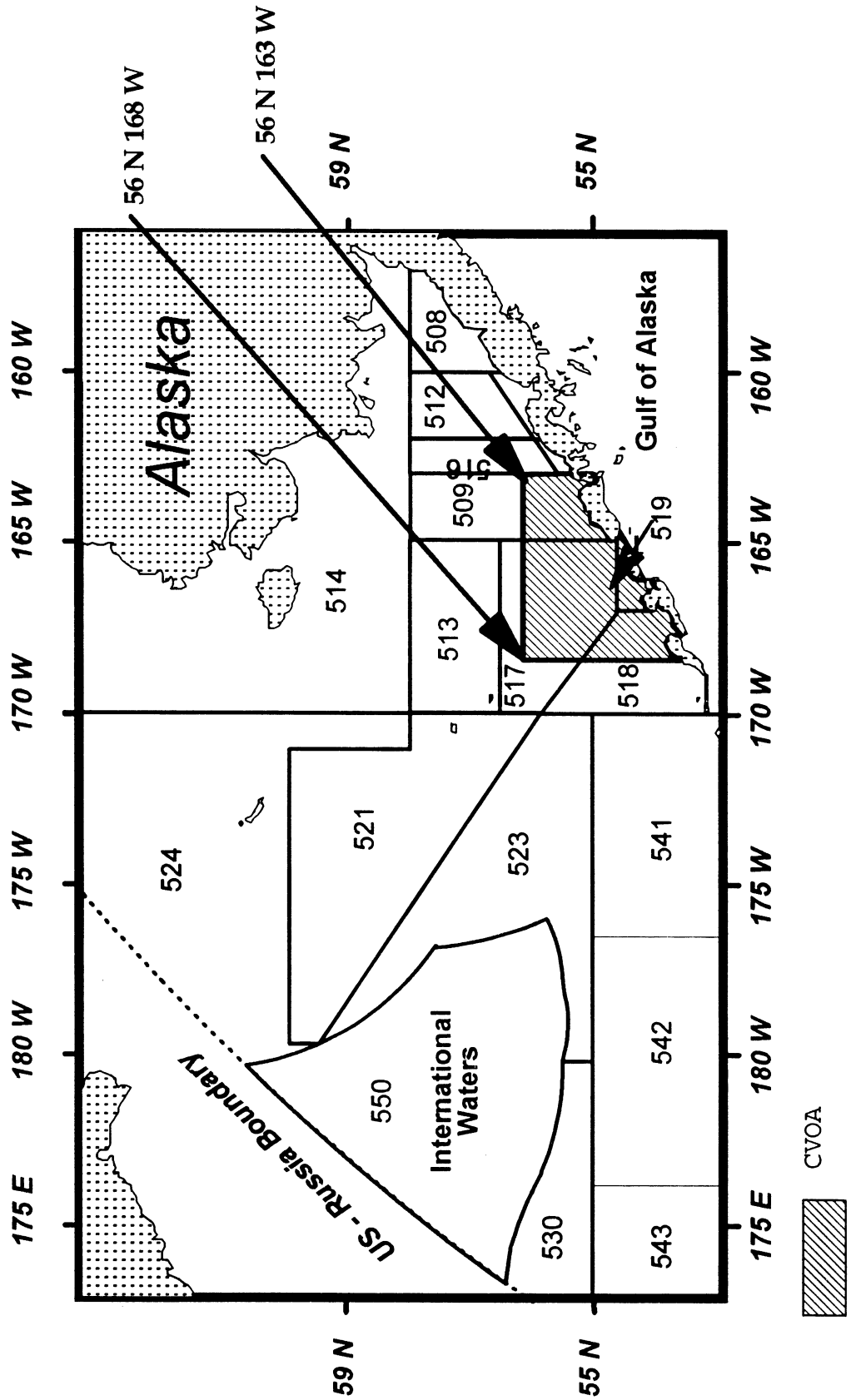


Figure 2. BSAI Catcher Vessel Operational Area (CVOA)
(South of 56 00 N lat between 163 00 W and
168 00 W long)

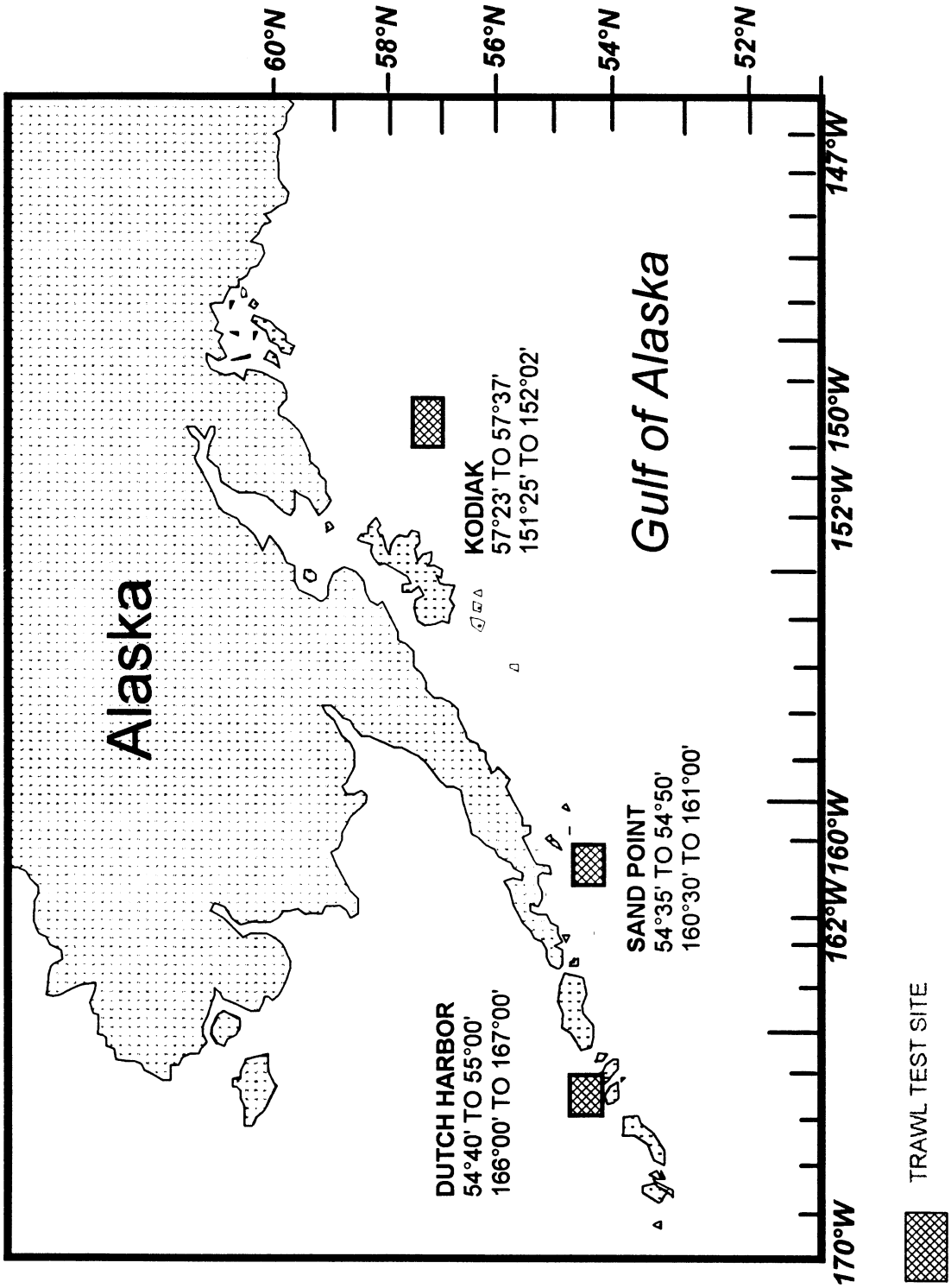


Figure 7. Location of Trawl Gear Test Areas in the GOA and the BSAI

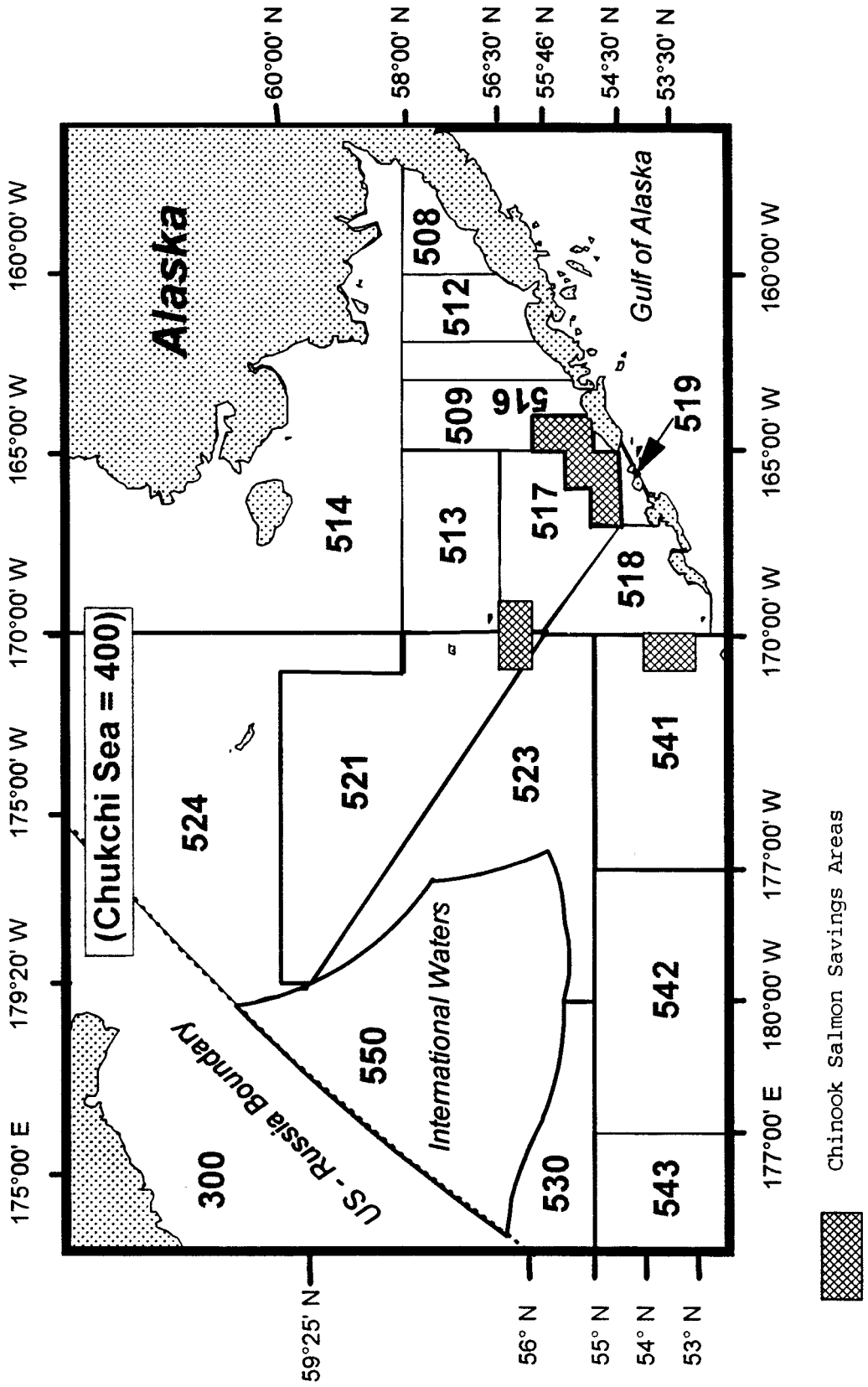


Figure 8. Chinook Salmon Savings Areas of the BSAI
a. Map

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FIGURE 8.—CHINOOK SALMON SAVINGS AREAS OF THE BSAI
[b. Coordinates]

The Chinook Salmon Savings Area is defined in the following three areas of the BSAI:

(*1*) The area defined by straight lines connecting the following coordinates in the order listed:

56°30′ N. lat., 171°00′ W. long.
56°30′ N. lat., 169°00′ W. long.
56°00′ N. lat., 169°00′ W. long.
56°00′ N. lat., 171°00′ W. long.
56°30′ N. lat., 171°00′ W. long.

(*2*) The area defined by straight lines connecting the following coordinates in the order listed:

54°00′ N. lat., 171°00′ W. long.
54°00′ N. lat., 170°00′ W. long.
53°00′ N. lat., 170°00′ W. long.
53°00′ N. lat., 171°00′ W. long.
54°00′ N. lat., 171°00′ W. long.

(*3*) The area defined by straight lines connecting the following coordinates in the order listed:

56°00′ N. lat., 165°00′ W. long.
56°00′ N. lat., 164°00′ W. long.
55°00′ N. lat., 164°00′ W. long.
55°00′ N. lat., 165°00′ W. long.
54°30′ N. lat., 165°00′ W. long.
54°30′ N. lat., 167°00′ W. long.
55°00′ N. lat., 167°00′ W. long.
55°00′ N. lat., 166°00′ W. long.
55°30′ N. lat., 166°00′ W. long.
55°30′ N. lat., 165°00′ W. long.
56°00′ N. lat., 165°00′ W. long.

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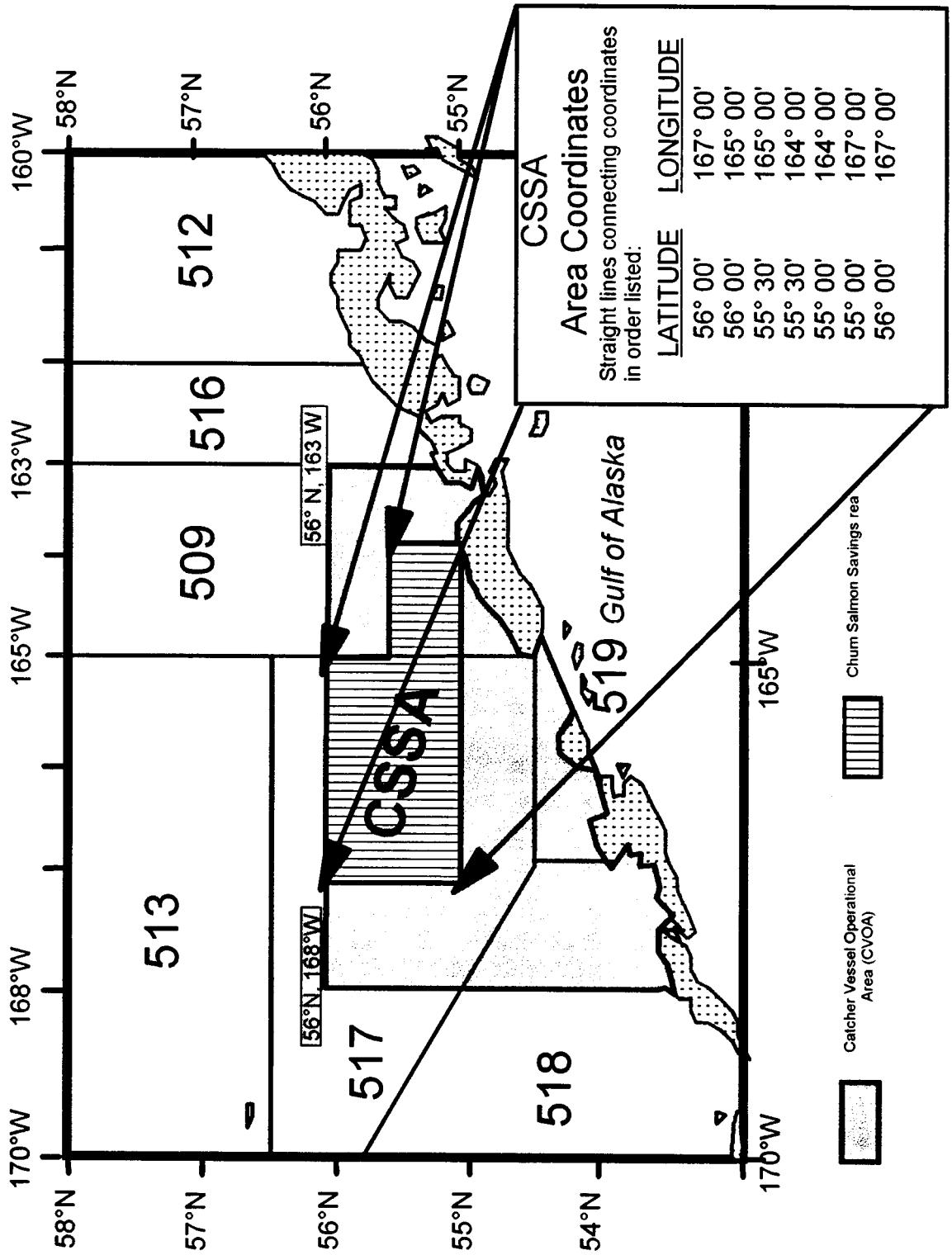


Figure 9. Chum Salmon Savings Area (CSSA) of the CVOA

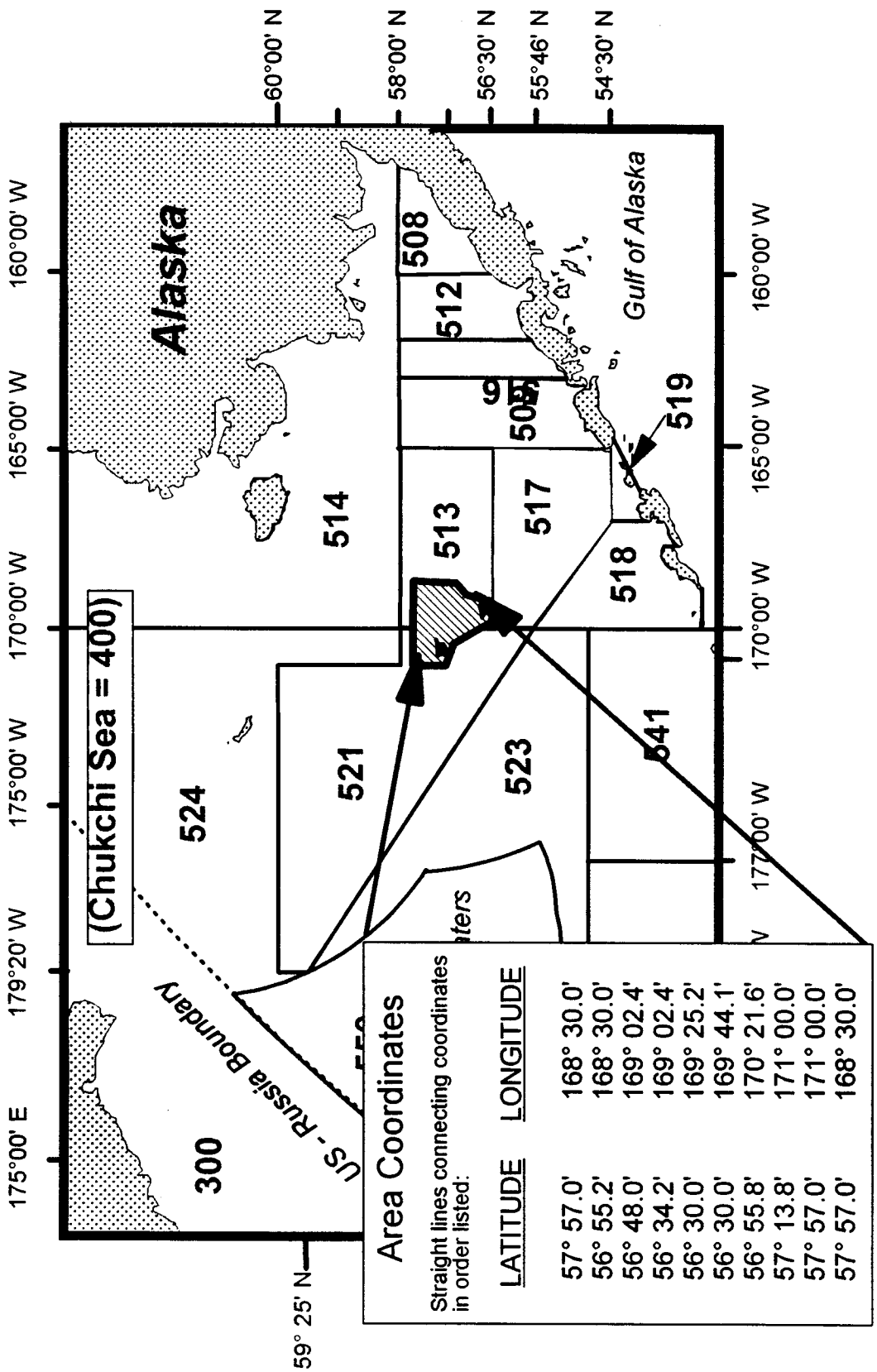


Figure 10. Pribilof Islands Area Habitat Conservation Zone

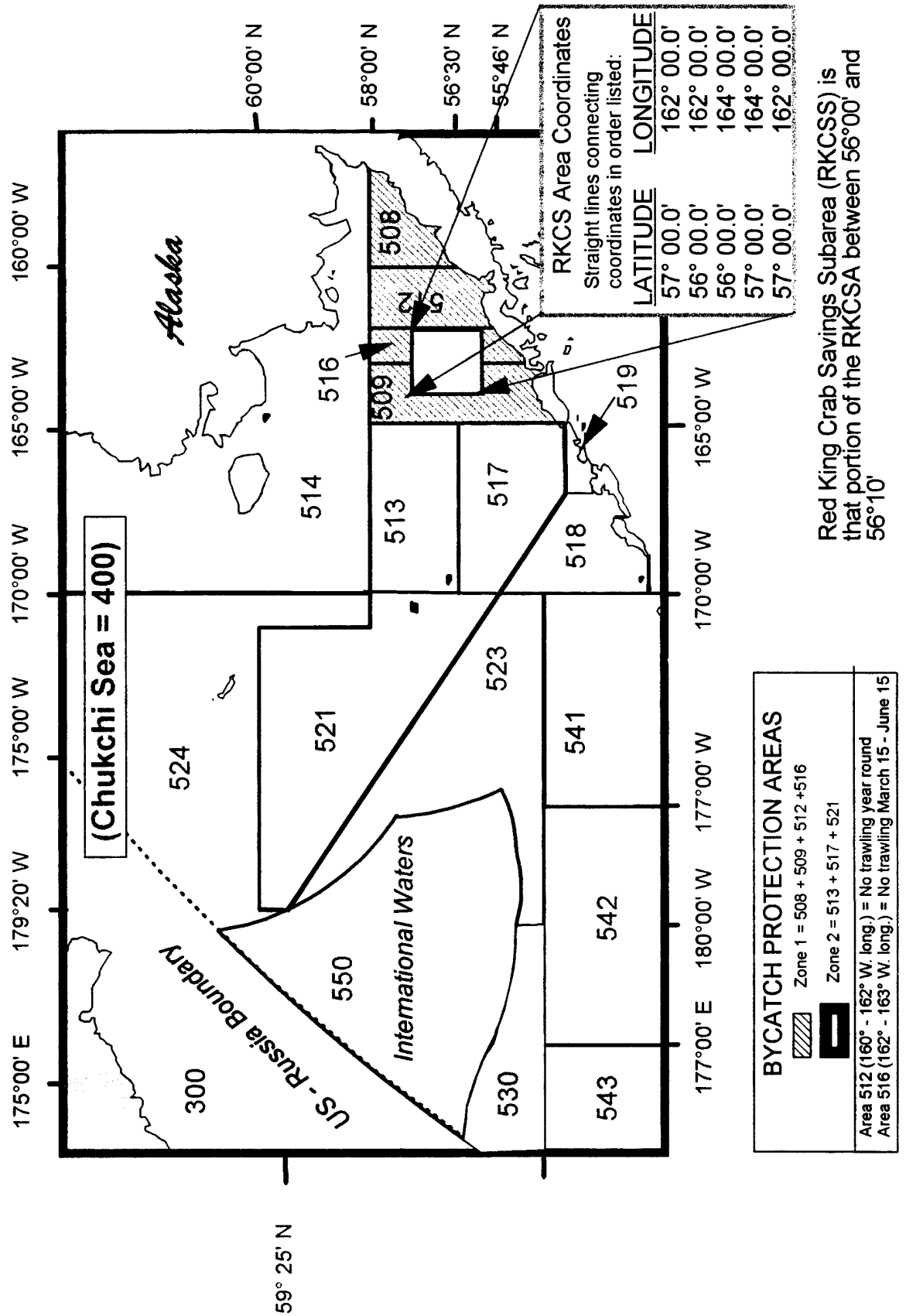


Figure 11. Red King Crab Savings Area (RKCSA)

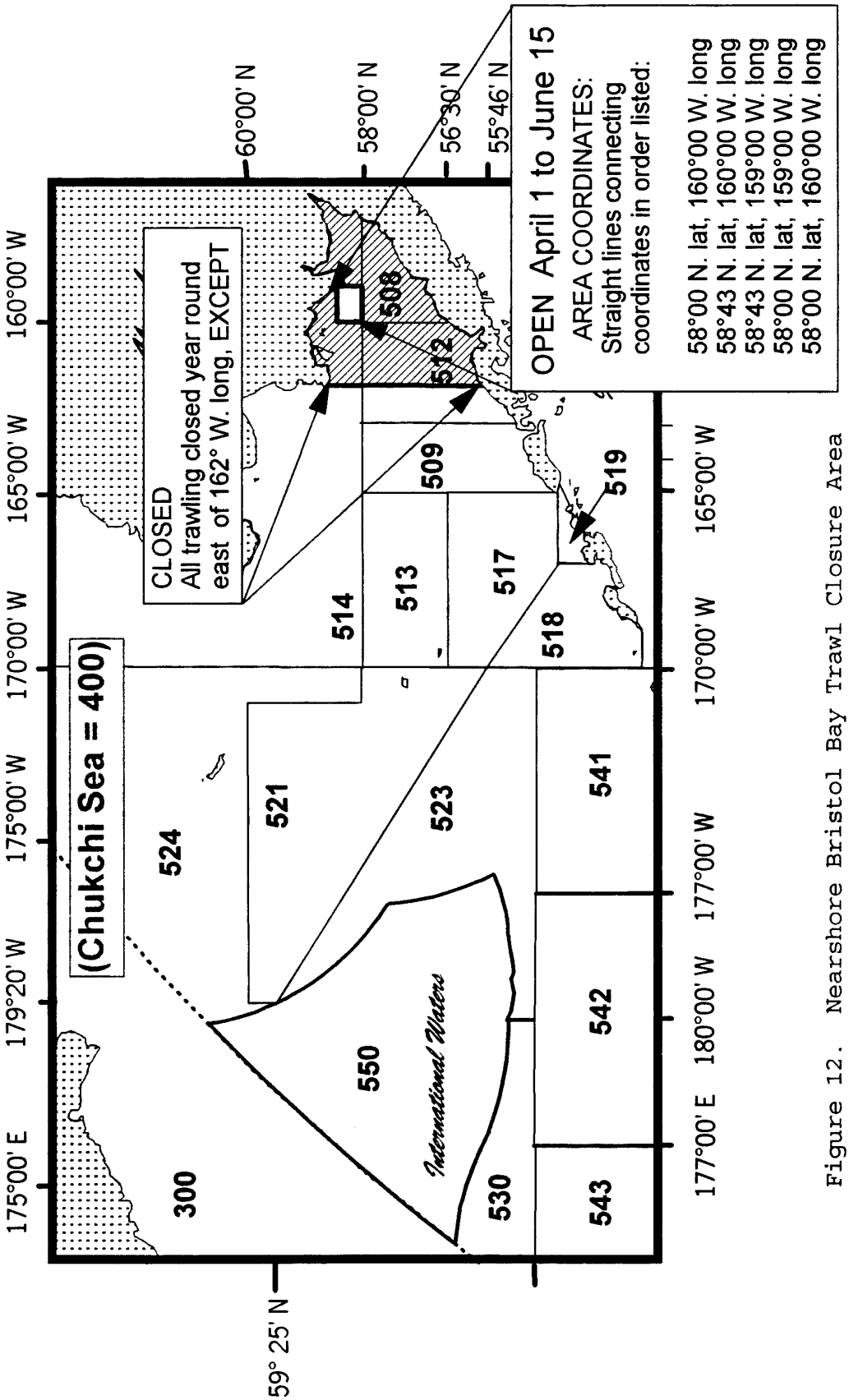


Figure 12. Nearshore Bristol Bay Trawl Closure Area

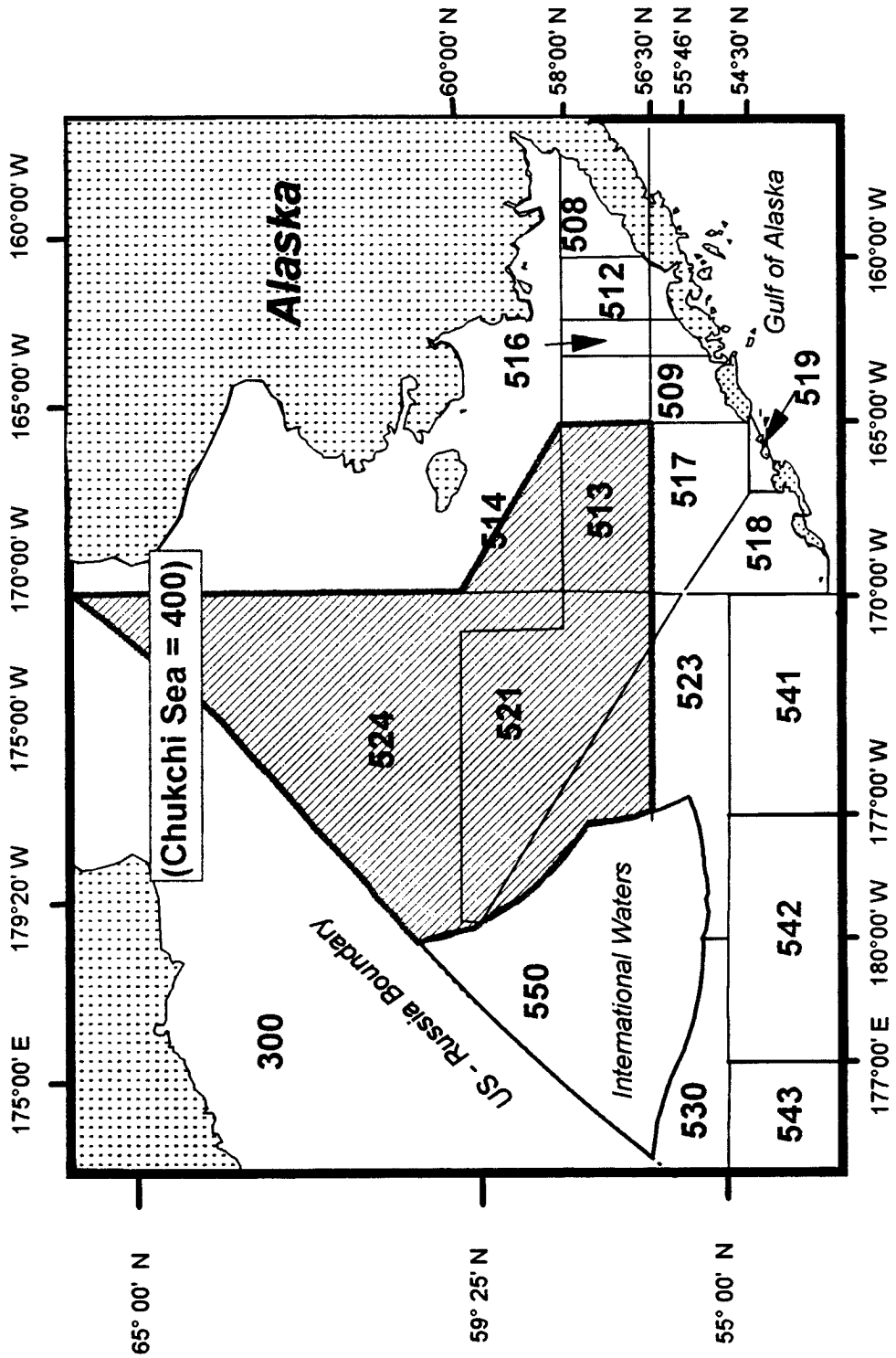


Figure 13. BSAI C. Opilio Crab Bycatch Limitation Zone (COBLZ)
a. Map

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FIGURE 13.—BSAI C. OPILIO TANNER CRAB BYCATCH LIMITATION ZONE (COBLZ)

[(b). Coordinates]

The COBLZ is an area defined as that portion of the Bering Sea Subarea north of 56° 30′ N. lat. that is west of a line connecting the following coordinates in the order listed:

| | |
|---|---|
| 56° 30′ N. lat. | 165° 00′ W. long. |
| 58° 00′ N. lat. | 165° 00′ W. long. |
| 59° 30′ N. lat. | 170° 00′ W. long. |

and north along 170° 00′ W. long. to its intersection with the U.S.-Russia Boundary.

**BILLING CODE 3510–22–P**

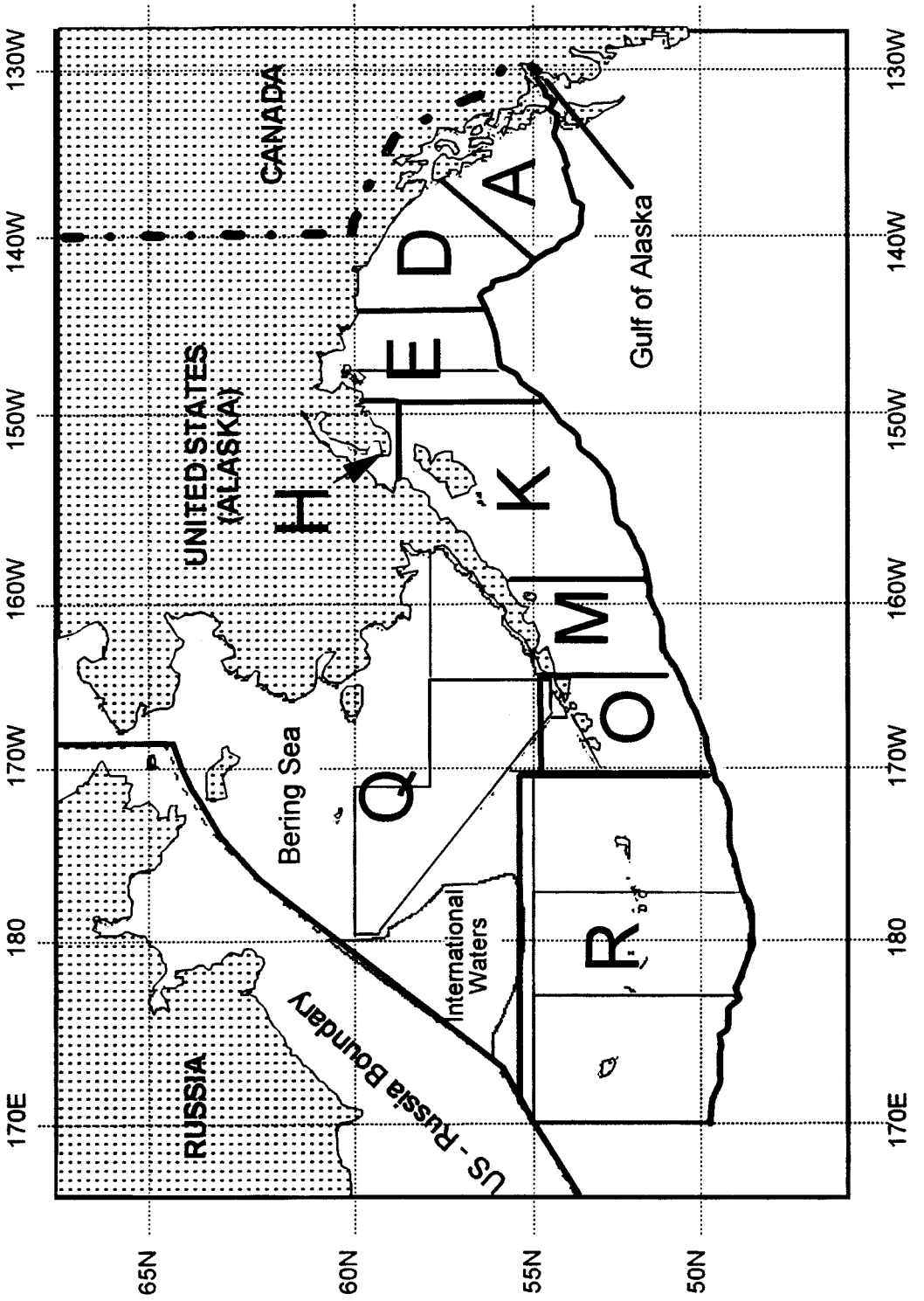


Figure 14. Scallop registration areas
a. Map

FIGURE 14.—SCALLOP REGISTRATION AREAS

[b. Coordinates]

*Registration Area A (Southeastern)* has as its southern boundary, the international boundary at Dixon Entrance, and as its northern boundary Loran-C line 7960–Y–29590, which intersects the western tip of Cape Fairweather at 58°47′58″ N. lat., 137°56′30″ W. long., except for ADF&G District 16 defined within Registration Area D (Yakutat).

*Registration Area D (Yakutat)* has as its western boundary the longitude of Cape Suckling (143°53′ W. long.), and as its southern boundary Loran-C line 7960–Y–29590, which intersects the western tip of Cape Fairweather at 58°47′58″ N. lat., 137°56′30″ W. long., and ADF&G District 16 defined as all waters all waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

FIGURE 14.—SCALLOP REGISTRATION AREAS—Continued

[b. Coordinates]

*Registration Area E (Prince William Sound)* has as its western boundary the longitude of Cape Fairfield (148°50′ W. long.), and its eastern boundary the longitude of Cape Suckling (143°53′ W. long.).

*Registration Area H (Cook Inlet)* has as its eastern boundary the longitude of Cape Fairfield (148°50′ W. long.) and its southern boundary the latitude of Cape Douglas (58°52′ N. lat.).

(1) *Northern District.* North of a line extending from Boulder Point at 60°46′23″ N. lat., to Shell Platform C, then to a point on the west shore at 60°46′23″ N. lat.

(2) *Central District.* All waters between a line extending from Boulder Point at 60°46′23″ N. lat., to Shell Platform C, to a point on the west shore at 60°46′23″ N. lat., and the latitude of Anchor Point Light (59°46′12″ N. lat.).

(3) *Southern District.* All waters enclosed by a line from Anchor Point Light west to 59°46′12″ N. lat., 152°20′ W. long., then south to 59°03′25″ N. lat., 152°20′ W. long., then in a northeasterly direction to the tip of Cape Elizabeth at 59°09′30″ N. lat., 151°53′ W. long., then from the tip of Cape Elizabeth to the tip of Point Adam at 59°15′20″ N. lat., 151°58′30″ W. long.

(4) *Kamishak Bay District.* All waters enclosed by a line from 59°46′12″ N. lat., 153°00′30″ W. long., then east to 59°46′12″ N. lat., 152°20′ W. long., then south to 59°03′25″ N. lat., 152°20′ W. long., then southwesterly to Cape Douglas (58°52′ N. lat.). The seaward boundary of the Kamishak Bay District is 3 nautical miles seaward from the shoreline between a point on the west shore of Cook Inlet at 59°46′12″ N. lat., 153°00′30″ W. long., and Cape Douglas at 58°52′ N. lat., 153°15′ W. long., including a line three nautical miles seaward from the shorelines of Augustine Island and Shaw Island, and including the line demarking all state waters shown on NOAA chart 16640, 21st Ed., May 5, 1990 (available from the Alaska Region).

(5) *Barren Island District.* All waters enclosed by a line from Cape Douglas (58°52′ N. lat.) to the tip of Cape Elizabeth at 59°09′30″ N. lat., 151°53′ W. long., then south to 58°52′ N. lat., 151°53′ W. long., then west to Cape Douglas.

(6) *Outer District.* All waters enclosed by a line from the tip of Point Adam to the tip of Cape Elizabeth, then south to 58°52′ N. lat., 151°53′ W. long., then east to the longitude of Aligo Point (149°44′33″ W. long.), then north to the tip of Aligo Point.

(7) *Eastern District.* All waters east of the longitude of Aligo Point (149°44′33″ W. long.), west of the longitude of Cape Fairfield (148°50′ W. long.), and north of 58°52′ N. lat.

*Registration Area K (Kodiak)* has as its northern boundary the latitude of Cape Douglas (58°52′ N. lat.), and as its western boundary the longitude of Cape Kumlik (157°27′ W. long.).

(1) *Northeast District.* All waters northeast of a line extending 168° from the easternmost tip of Cape Barnabas, east of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, east of 152°30′ W. long. in Shuyak Strait, and east of the longitude of the northernmost tip of Shuyak Island (152°20′ W. long.).

(2) *Southeast District.* All waters southwest of a line extending 168° from the easternmost tip of Cape Barnabas and east of a line extending 222° from the southernmost tip of Cape Trinity.

(3) *Southwest District.* All waters west of a line extending 222° from the southernmost tip of Cape Trinity, south of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak and east of the longitude of Cape Kilokak (156°19′ W. long.).

(4) *Semidi Island District.* All waters west of the longitude of Cape Kilokak at 156°19′ W. long. and east of the longitude of Cape Kumlik at 157°27′ W. long.

(5) *Shelikof District.* All waters north of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak, west of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, west of 152°30′ W. long., in Shuyak Strait, and west of the longitude of the northernmost tip of Shuyak Island (152°20′ W. long.).

*Registration Area M (Alaska Peninsula)* has as its eastern boundary the longitude of Cape Kumlik (157°27′ W. long.), and its western boundary the longitude of Scotch Cap Light. The registration area also includes all waters of Bechevin Bay and Isanotski Strait south of a line from the easternmost tip of Chunak Point to the westernmost tip of Cape Krenitzen.

*Registration Area O (Dutch Harbor)* has as its northern boundary the latitude of Cape Sarichef (54°36′ N. lat.), as its eastern boundary the longitude of Scotch Cap Light, and as its western boundary 171° W. long., excluding the waters of Statistical Area Q.

*Registration Area Q (Bering Sea)* has as its southern boundary a line from Cape Sarichef (54°36′ N. lat.), to 54°36′ N. lat., 171° W. long., to 55°30′ N. lat., 171° W. long., to 55°30′ N. lat., 173°30′ long., as its northern boundary the latitude of Point Hope 68°21′ N. lat.).

*Registration Area R (Adak)* has as its eastern boundary 171° W. long., and as its northern boundary 55°30′ N. lat.

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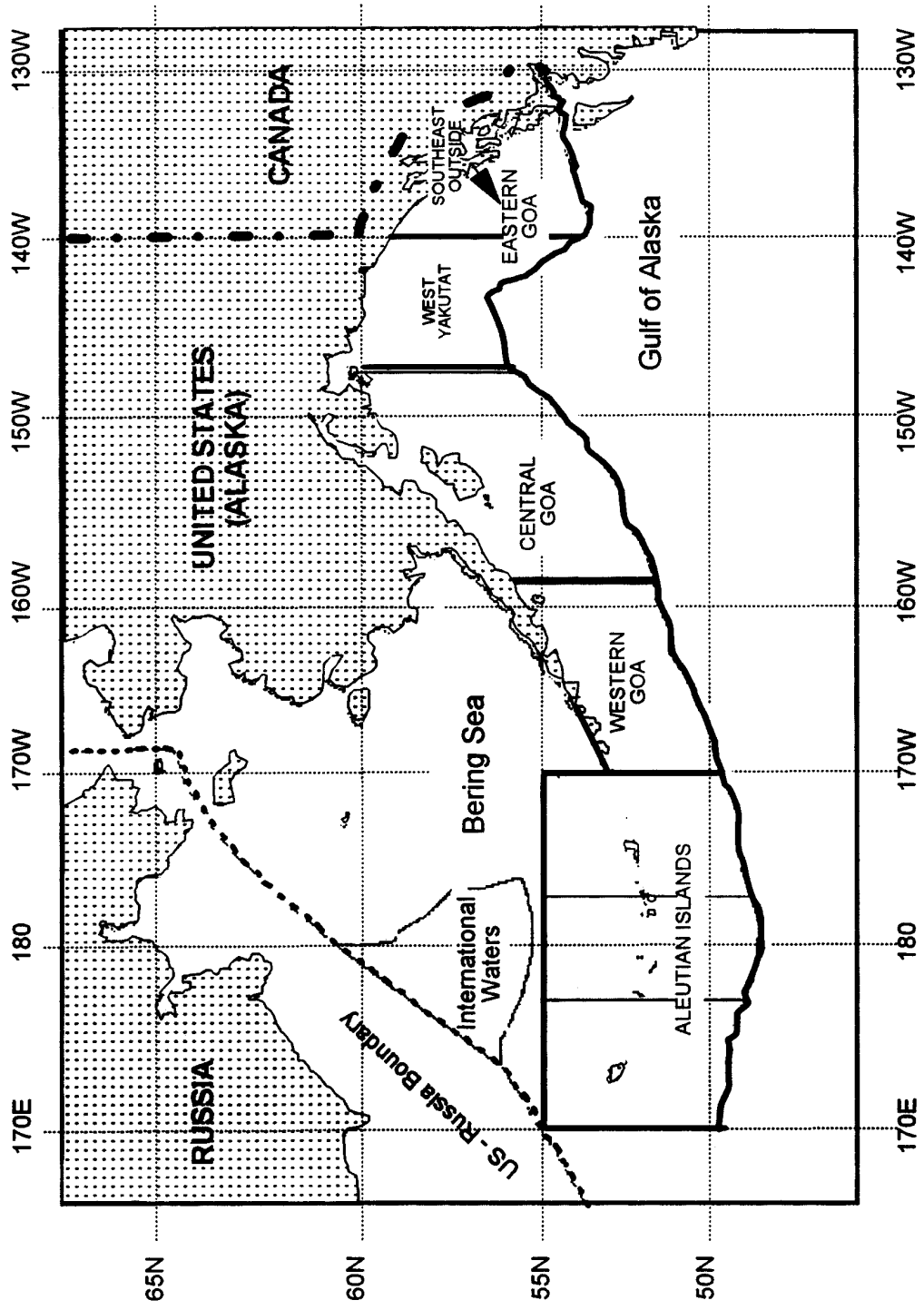


Figure 15. Sablefish Regulatory Areas
a. Map

NOTE: Refer to Figures 1 and 3 for coordinates.

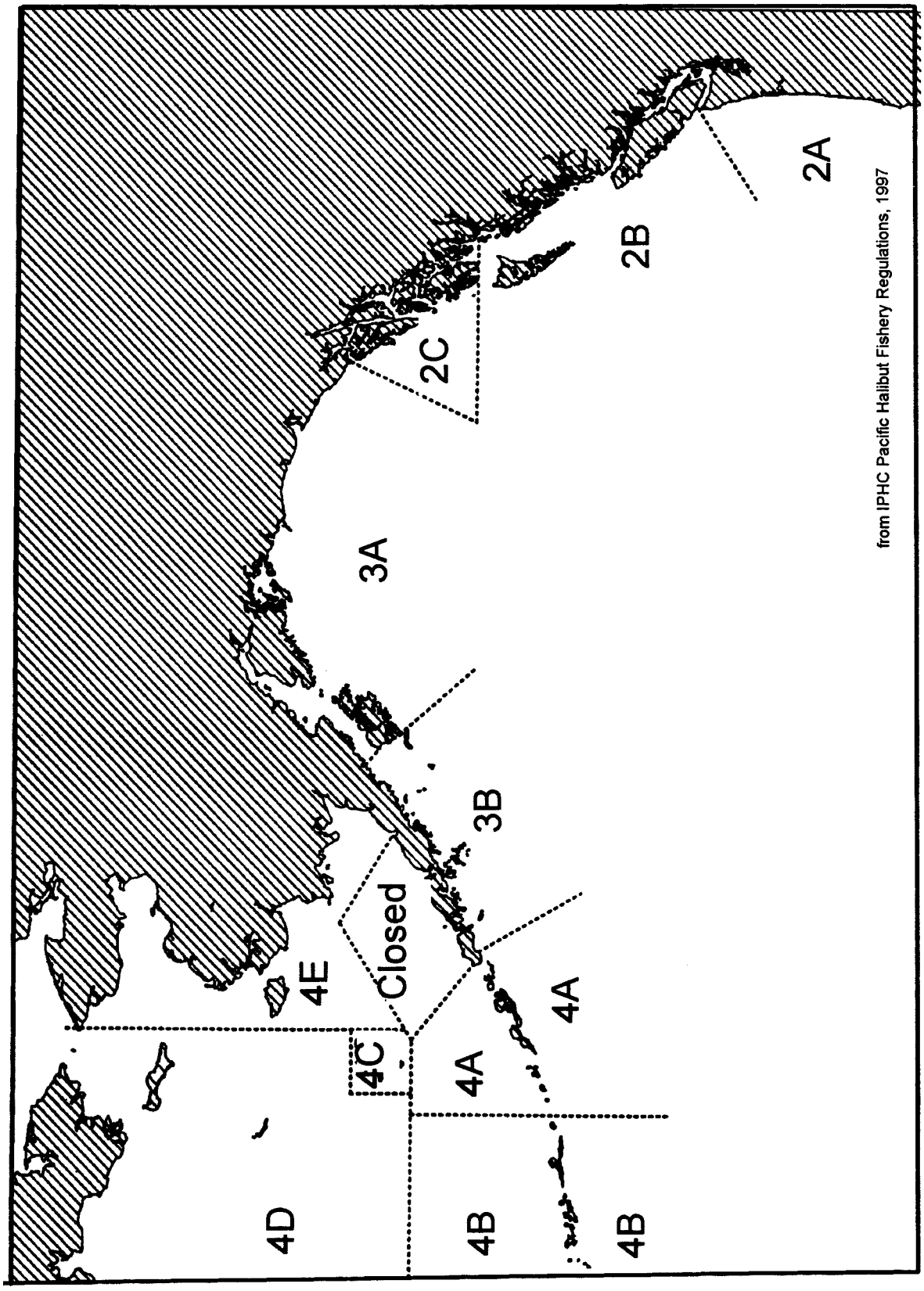


Figure 16. Regulatory Areas for the Pacific Halibut Fishery
a. Map

BILLING CODE 3510–22–C

FIGURE 16.—REGULATORY AREAS FOR THE PACIFIC HALIBUT FISHERY

[b. Coordinates]

*Area 2A* includes all waters off the states of California, Oregon, and Washington;
*Area 2B* includes all waters off British Columbia;
*Area 2C* includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′57″ N. lat., 136°38′18″ W. long.) and south and east of a line running 205° true from said light;
*Area 3A* includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N. lat., 155°35′00″ W. long.) to Cape Ikolik (57°17′17″ N. lat., 154°47′18″ W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N. lat., 154°08′44″ W. long.), then 140° true;
*Area 3B* includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N. lat., 164°20′00″ W. long.) and south of 54°49′00″ N. lat. in Isanotski Strait;
*Area 4A* includes all waters in the GOA west of Area 3B and in the Bering Sea west of the closed area defined below that are east of 172°00′00″ W. long. and south of 56°20′00″ N. lat.;
*Area 4B* includes all waters in the Bering Sea and the GOA west of Area 4A and south of 56°20′00″ N. lat.;
*Area 4C* includes all waters in the Bering Sea north of Area 4A and north of the closed area defined below which are east of 171°00′00″ W. long., south of 58°00′00″ N. lat., and west of 168°00′00″ W. long.;
*Area 4D* includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00′00″ W. long.;
*Area 4E* includes all waters in the Bering Sea north and east of the closed area defined below, east of 168°00′00″ W. long., and south of 65°34′00″ N. lat.
*Closed areas*
All waters in the Bering Sea north of 54°49′00″ N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′00″ N. lat., 164°55′42″ W. long.) to a point at 56°20′00″ N. lat., 168°30′00″ W. long.; thence to a point at 58°21′25″ N. lat., 163°00′00″ W. long.; thence to Strogonof Point (56°53′18″ N. lat., 158°50′37″ W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light.
In Area 2A, all waters north of Point Chehalis, WA (46°53′18″ N. lat.).

[FR Doc. 98–3454 Filed 2–18–98; 8:45 am]
**BILLING CODE 3510–22–P**

# Notices

**Federal Register**

Vol. 63, No. 33

Thursday, February 19, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. 98–001N]**

### Notice of Request for Extension of a Currently Approved Information Collection

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request an extension of a currently approved information collection package regarding the regulatory requirements of FSIS's ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems,'' final rule.

**DATES:** Comments on this notice must be received on or before April 20, 1998.

**ADDITIONAL INFORMATION OR COMMENTS:** Contact Lee Puricelli, Paperwork Specialist; (202) 720–0346.

**SUPPLEMENTARY INFORMATION:**

*Title:* Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems.

*OMB Number:* 0583–0103.

*Expiration Date of Approval:* April 30, 1997.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* FSIS has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting an extension of the information collection package addressing meat and poultry paperwork and recordkeeping requirements related to FSIS's final rule ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' (61 FR 38806, July 25, 1996). In the final rule, FSIS established requirements applicable to meat and poultry establishments designed to reduce the occurrence and numbers of pathogenic microorganisms on meat and poultry products, reduce the incidence of foodborne illness associated with the consumption of those products and provide a new framework for modernization of the current system of meat and poultry inspection.

The regulations require that each establishment develop and implement written sanitation standard operating procedures (Sanitation SOP's); require regular microbial testing by slaughter establishments to verify the adequacy of the establishments' process controls for the prevention and removal of fecal contamination and associated bacteria; and require that all meat and poultry establishments develop and implement a system of preventive controls, known as HACCP, designed to improve the safety of their products.

#### Standard Operating Procedures (SOP) for Sanitation

Establishments must develop and maintain an SOP for sanitation that will be used by inspection personnel in performing monitoring verification tasks. The establishment must detail in a written plan how they will meet the basic sanitation requirements. The SOP's specify the cleaning and sanitizing procedures for all equipment and facilities involved in the production of every product.

FSIS does not review or approve the plans. However, plans must be on file and available to FSIS program employees upon request. Based on current regulatory standards, inspectors review the plans and if an establishment's sanitation activities are determined to be insufficient, then inspectors may suggest modifications.

Each official establishment maintains daily records sufficient to document the implementation and monitoring of the Sanitation SOP's. In most cases, inspectors review the records once a day.

#### Microbiological Testing

As part of *E. coli* verification testing, each slaughter establishment must develop written procedures outlining specimen collection and handling. The slaughter establishments are responsible for entering the results into a statistical process control chart. The data and chart must be available for review by the Inspector-in-Charge, upon request.

#### HACCP

Establishments must develop written HACCP plans that include: Identification of the processing steps which present hazards; identification and description of the critical control point (CCP) for each identified hazard; specification of the critical limit which may not be exceeded at the CCP, and if appropriate a target limit; description of the monitoring procedure or device to be used; description of the corrective action to be taken if the limit is exceeded; description of the records which will be generated and maintained regarding this CCP; and description of the establishment verification activities and the frequency at which they are to be conducted. Critical limits which are currently a part of FSIS regulations or other requirements must be addressed.

FSIS does not review or approve the plans. However, plans must be on file and available to FSIS program employees upon request. Inspectors will review the plans and if an establishment's HACCP operations are determined to be insufficient by inspectors, then they may suggest modifications.

Establishments keep records for monitoring activities during slaughter and processing, corrective actions, verification check results, and related activities that contain the identity of the product, the product code or slaughter production lot, and the date the record was made. The information is recorded at the time that it is observed, and the record is signed by the operator or observer.

Lastly, HACCP records generated by the processor are retained on site for at least one year for slaughter and refrigerated products and two years for shelf-stable products. Off-site storage of records is permitted after six months, if such records can be retrieved and provided, on-site, within 24 hours of an FSIS employee's request. Records must be available to FSIS program employees

upon request for verification of the HACCP system. However, it is the Agency's intent to generate its own records of its verification tasks and results rather than duplicate the records of the establishment.

The paperwork requirements of these regulations, records and plans, represent an alternative to the previous process of inspection. The industry's documentation of its processes, first in a plan and thereafter in a continuous record of process performance, is a more effective food safety approach than the less systematic generation of information by plant employees and inspectors. It gives inspectors a much broader picture of production than they can generate on their own and gives them time to perform higher priority tasks. At the same time, it gives the managers a better view of their own process and more opportunity to adjust it to prevent safety defects. As a result, managers and inspectors will use their time more effectively. Moreover, any increased paperwork burden will be offset by a reduction in the number of face-to-face contacts between management and the inspectors.

*Estimate of Burden:* The public reporting burden for this collection of information is estimated to average .1126685 hours per response.

*Respondents:* Meat and poultry establishments.

*Estimated Number of Respondents:* 7,374.

*Estimated Number of Responses per Respondent:* 9513.7803.

*Estimated Total Annual Burden on Respondents:* 7,904,222 hours.

(Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

Copies of this information collection assessment and comments can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street SW, Room 109, Washington, DC 20250–3700, (202) 720–0346.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 12, 1998.

**Thomas J. Billy,**

*Administrator.*

[FR Doc. 98–4158 Filed 2–18–98; 8:45 am]

BILLING CODE 3410–DM–P

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

### Notice of FY 1998 Emerging Markets Program and Solicitation of Private Sector Proposals

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice of FY 1998 emerging markets program and solicitation of private sector proposals.

**SUMMARY:** The Foreign Agricultural Service (FAS) invites proposals for using technical assistance to promote the export of, and improve the market access for, U.S. agricultural products to emerging markets in fiscal year (FY) 1998 under the Emerging Markets Program (the Program). The Program is authorized by the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (the Act). Proposals will be considered under this announcement from any private agricultural or agribusiness organization, with certain restrictions as indicated below. Program funds available for FY 1998 under this notice are approximately $5 million. All agricultural products except tobacco are eligible for consideration.

**FOR FURTHER INFORMATION:** It is strongly recommended that any organization considering applying to the Program for FY 1998 funding assistance obtain a copy of the 1998 Program Guidelines. The Guidelines contain additional information, including details of project budgets and certain funding limitations that must be taken into account in the preparation of proposals. Requests for Program Guidelines and additional information may be obtained from and applications submitted to: Emerging Markets Office, Foreign Agricultural Service, Room 6506 South Building, U.S. Department of Agriculture, Washington, DC 20250–1032, Fax: (202) 690–4369. The Guidelines are also available on the FAS Home Page on the Internet: http:/www.fas.usda.gov/excredits/em-markets/em-markets.html.

**Program Definitions**

The purpose of Program is to assist U.S. organizations, public and private, to improve market access, development and promotion of U.S. agricultural products in low to middle income countries that offer promise of emerging market opportunities in the near- to medium-term. This is to be accomplished by providing U.S. technical assistance through projects and activities in those emerging markets.

The Act defines an emerging market as any country that the Secretary of Agriculture determines:

(1) Is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(2) has the potential to provide a significant market for United States agricultural commodities or products of United States agricultural commodities.

Because funds are limited and the range of potential emerging market countries is world wide, priority is given to proposals which focus on those countries with (1) per capita income less than $8,355 (the food aid per capital income cut-off figure of OECD's Development Assistance Committee); and (2) population greater than 1 million.

**Priorities and Determining Factors**

The underlying premise of the Emerging Markets Program is that there are distinctive characteristics of emerging agricultural markets that necessitate or benefit significantly from U.S. governmental assistance before the private sector moves to develop these markets through normal corporate or trade promotional activities. The emphasis is on market access opportunities, with funding provided for successful activities on a project-by-project basis. The Program complements the efforts of other FAS marketing programs. Once a market access issue has been addressed by this Program, further market development activities may be considered under other programs such as GSM–102 or GSM–103 credit guarantee programs, the Market Access Program (MAP), or the Foreign Market Development Program (FMD). Ineligible activities include in-store promotions, restaurant promotions, advertising, and branded promotions.

For countries deemed ''emerging markets,'' the following criteria will be used to determine the suitability of projects for funding by the Emerging Markets Program:

1. Low U.S. market share *and* significant market potential.

• Is there a significant lag in U.S. market share of a specific commodity in a given country or countries?

• Is there an identifiable obstacle or competitive disadvantage facing U.S. exporters (e.g., competitor financing, subsidy, competitor market development activity) or systemic obstacle to imports of U.S. products (e.g., inadequate distribution, infrastructure impediments, insufficient information, lack of financing options or resources)?

• What is the potential of a project to generate a significant increase in U.S. agricultural exports in the near- to medium-term? (Estimates or projections of trade benefits to commodity exports, and the basis for evaluating such, must be included in proposals submitted to the Program.)

2. Recent change in a market.

• Is there, for example, a change in a sanitary or phytosanitary trade barrier; a change in an import regime or the lifting of a trade embargo; a shift in the political or financial situation in a country?

In order to qualify for Emerging Markets Program funding, proposals must also include *cost-sharing:* the willingness of private agribusiness to commit its own funds along with those of the Program to seek export business in an emerging market. No proposal will be considered without the element of cost-sharing. The Emerging Markets Program is intended to complement, not supplant, the efforts of the U.S. private sector. The percentage of private funding proposed for a project will therefore be a critical factor in determining which proposals are funded under the Program. While no minimum or maximum is specified, the absolute amount of private sector funding proposed may also affect the decision to fund a proposal. The type of cost-sharing provided by private industry is also not specified; it may be professional time of staff assigned to the project or actual cash invested in the proposed project. However, proposals in which private industry is willing to commit actual funds, rather than contributing such in-kind items as staff resources, will be given priority consideration.

Additional criteria to be considered in approving projects are outlines under ''Applications'' below.

**Funding of Proposals**

Funding for technical assistance projects is made on the basis of proposals to the Emerging Markets Office. In general, each proposal submitted in response to this announcement will compete against all such proposals received under the same announcement. Proposals will be judged not only on their ability to provide benefits to the organization receiving Emerging Markets Program funds, but which also represent the broader interests of the industry which that organization represents.

The limited funds of the Emerging Markets Program and the range of emerging markets world wide in which the funds may be used preclude EMO from approving large budgets for single projects. The Program is intended to provide appropriate USDA assistance to projects which also have a significant amount of financial contributions from other sources, especially U.S. private industry. There is no minimum or maximum amount set for EMO-funded projects; however, most are funded at the level of less than $500,000 and for a duration on one year or less. Funding is normally made available on a cost-reimbursable basis.

*Multi-year Proposals.* These may be considered in the context of a strategic plan and detailed plan of implementation. Funding in such cases is normally provided one year at a time, with commitments beyond the first year subject to interim evaluation.

*Projects Already in Progress.* Funding may be considered for technical assistance projects that have already begun with the support and financial assistance of a private entity, and for which government funding for continuation of the project is requested. Such proposals must meet the criteria of the Emerging Markets Program, including cost-sharing for the portion of the project for which government funding is requested.

(Exception. In addition to the approximately $5 million made available through this announcement for competitive proposals, some project activities may qualify for funding under one of two separate funds administered by the Emerging Markets Office: the Technical Issues Resolution Fund, and the Quick Response Market Fund. Because of the time-sensitive nature of these funds, proposals funded from these sources may be approved and funded at any time, provided the basic requirements of the Emerging Markets program and the specific prerequisites of the funds are met in each case. For details concerning these funds, see the Program Guidelines.)

**Project Reports**

Results of all projects supported financially by the Program must be reported in a performance report to the Emerging Markets Office. Because public funds are used to support the project, these reports will be made available to the public by the Emerging Markets Office.

**Eligible Organizations, Activities**

Any United States agricultural and/or agribusiness organization, university, or state department of agriculture, is eligible to participate in the Program, with certain limitations. Priority will be given to those proposals that include significant support and involvement by private industry.

Proposals from research and consulting organizations will be considered if they provide evidence of substantial participation by U.S. industry.

Under the Program, U.S. organizations may seek funding to address market-specific issues and undertake activities not suitable for funding under FAS market promotion programs, e.g., the Foreign Market Development (FMD) Program and the Market Access Program (MAP), including the following:

• Responding to new or changed market opportunities requiring a rapid response (through the Quick Response Marketing Fund);

• Addressing food safety and regulation issues (through the Technical Issues Resolution Fund);

• Conducting sectorial assessments for trade and investment, orientation visits, feasibility studies, or market research for markets not already serviced by other FAS marketing programs, or for products for niche markets even though serviced by other FAS marketing programs;

• Undertaking cross-commodity activities focusing on problems, e.g., distribution, which affect more than one industry.

**DATES:** Proposals for FY 1998 funding must be received in the Emerging Markets Office not later than Monday, April 20, 1998. Funding decisions are anticipated within approximately 90 days of this deadline. No proposal received after the April 20 deadline will be considered, regardless of the circumstances.

**Applications**

To assist FAS in making determinations under the Program, FAS recommends that all applications contain complete information about the proposed project and that the applications not be longer than ten (10) pages. The recommended information includes: name of person/organization submitting proposal; date of proposal; organization affiliation and address; telephone and fax numbers; full title of proposal; precis of the proposal,

including objectives, proposed activities, benefits to U.S. agricultural exports, target country/countries for proposed activities, projected starting date for project, and funding amount requested; summary and detailed description of proposed project; statement of problem (specific trade constraint) to be addressed through the proposed project; benefits to U.S. agricultural exports; agricultural trade data for target country/countries, including existing percentage of U.S. export market share; information on whether similar activities are or have previously been funded in target country/countries (e.g., under MAP and/or FMD programs); a clearly stated explanation as to why participating organization(s) are unlikely to carry out activities without Federal financial assistance; time line(s) for project implementation; detailed project budget, including other sources of funding for the project and contributions from participating organizations (additional requirements are contained in the Program Guidelines); Federal tax ID number of the responsible organization. Qualifications of applicant(s) should be included, as an attachment.

Signed at Washington, D.C., on February 11, 1998.

**Lon Hatamiya,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 98–4169 Filed 2–18–98; 8:45 am]

**BILLING CODE 3410–10–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Cottonwood Coal Lease Tract, UTU–68012; Manti-La Sal National Forest, Emery County, Utah

**ACTION:** Notice of intent to prepare a third-party Environmental Impact Statement.

**SUMMARY:** The Forest Service and Bureau of Land Management will direct preparation of a Third-Party Environmental Impact Statement (EIS) to document the analysis and disclose the environmental and human effects of proposed actions to offer the Cottonwood Coal Lease Tract for competitive bidding in accordance with 43 CFR part 3425. As the surface management agency, the Forest Service will be the lead agency for preparation of the EIS and the Bureau of Land Management will be a joint lead agency. The Office of Surface Mining and Bureau of Reclamation will also participate as cooperating agencies.

The coal lease tract, as delineated by the Tract Delineation Team, encompasses 9,243.87 acres of Federal coal lands on the Manti-La Sal National Forest as follows:

T. 17 S., R. 6 E., SLM,
Section 2, SW4;
Section 3, lots 1–12, SE4;
Section 4, lots 1–2, S2NE4, SE4;
Section 9, E2, E2W2;
Section 10, lots 1–8, E2;
Section 11, All;
Section 12, W2W2;
Section 13, W2W2;
Section 14, lots 1–4, E2, NW4;
Section 15, lots 1–12, NE4;
Section 16, NE4NW4;
Section 20, E2E2;
Section 21, All;
Section 22, All;
Section 23; lots 1–12, NE4;
Section 24, W2W2;
Section 25, N2NW4;
Section 26, N2NE4, W2SW4NE4, NW4, N2SW4, W2NW4SE4;
Section 27, N2, N2S2;
Section 28, All;
Section 29, E2;
Section 32, E2;
Section 33; All.

(Additions and/or deletions to the delineated tract may be considered as alternatives to the proposed action, to be developed and analyzed based on issues and management needs.)

PacifiCorp applied to the Bureau of Land Management for the lease to obtain additional coal reserves to increase the production life of their Cottonwood/Wilberg/Trail Mountain mine complex. The tract lies west and north of the boundary of the existing approved permit area for the Trail Mountain Mine. If PacifiCorp obtains the tract, it would be mined by longwall and room-and-pillar methods through underground workings in the existing permit area. Existing portal facilities in Cottonwood/Wilberg/Trail Mountain mine comples would be used. If another company obtains the tract, it is most likely that new portal facilities would be required in Cottonwood Canyon, north of the existing Trail Mountain Mine facility. The underground mining methods and layout would be similar. The EIS would consider the effects of both scenarios, the No Action Alternative, and other alternatives to be developed after completion of project scoping.

**AGENCY DECISIONS:** In accordance with the Coal Leasing Amendments Act of 1975, which amended the Mineral Leasing Act of 1920, the Forest Supervisor, Manti-La Sal National forest, must decide whether or not to consent to leasing by the Bureau of Land Management and identify special coal lease stipulations needed to protect non-mineral resources.

In accordance with the Mineral Leasing Act of 1920, as amended, the Utah State Director of the Bureau of Land Management must decide whether or not to offer the tract for competitive leasing and under what terms, conditions, and stipulations.

**DATES:** Written comments concerning the scope of the analysis described in this notice should be received on or before March 23, 1998.

**ADDRESSES:** Send written comments to Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning the proposed action and EIS should be addressed to Dale Harber or Aaron Howe, Manti-La Sal National Forest, phone (435) 637–2817.

**SUPPLEMENTARY INFORMATION:** This EIS will tier to the Final EIS and Record of Decision for the Manti-La Sal National Forest Land and Resource Management Plan (Forest Plan). The Manti-La Sal Forest Plan provides the overall guidance (Goals, Objectives, Standards, and Management Area Direction) to achieve the Desired Future Condition for the area being analyzed, and contains specific management area prescriptions for the entire Forest. The proposed lease tract is available for further consideration for coal leasing. The Forest Service and Bureau of Land Management have determined that data are available to meet the Data Adequacy Standards for Federal Coal Leasing, Uinta-Southwestern Utah Coal Region.

Issues and alternatives to be evaluated in the analysis will be determined through public scoping. The major issues are expected to include the socioeconomic benefits of mining; the potential impacts of underground mining and mining-induced subsidence to surface and ground water, vegetation, wildlife, cultural/paleontological resources, range improvements, and other land uses; the potential for impacts on the Joes Valley Dam; and the potential impacts of any new surface facilities to the Forest and human environments.

The Forest Service is seeking information and comments from Federal, State, and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS and Final

EIS. For most effective use, comments would be submitted to the Forest Service within 30 days from the date of publication of this notice in the **Federal Register**. Preparation of the EIS will include the following steps:

1. Define the purpose of and need for action.
2. Identify potential issues.
3. Eliminate issues of minor importance or those that have been covered by previous and relevant environmental analysis.
4. Select issues to be analyzed in depth.
5. Identify reasonable alternatives to the proposed action.
6. Describe the affected environment.
7. Identify the potential environmental effects of the alternatives.

Steps 2, 3, and 4 will be completed through the scoping process.

Step 5 will consider a range of alternatives developed from the key issues and management needs. At a minimum, the ''No Action'' and ''Propose Action'' Alternatives will be analyzed. Other alternatives could involve modified tract boundaries (additions and/or reductions) and different sets of special lease stipulations for the protection of non-mineral resources. Alternatives may also be developed to include analysis of mining in the existing adjacent lease area and a potential modification of adjacent existing leases to add up to 160 acres/lease to prevent bypassing minable reserves.

Step 6 will describe the physical attributes of the area to be affected by this proposal, with special attention to the environmental factors that could be adversely affected.

Step 7 will analyze the environmental effects of each alternative. This analysis will be consistent with management direction outlined in the Forest plan. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented. In addition, the site specific mitigation measures for each alternative will be identified and the effectiveness of these mitigation measures will be disclosed.

Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process, the next 30 days following publication of this Notice in the **Federal Register**, and (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review in September, 1998. At this time the EPA will publish an availability notice of the Draft EIS in the **Federal Register**.

The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the Draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (See The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel, (9th Circuit, 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final document.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on the Draft EIS should be as specific as possible. Referring to specific pages or chapters of the Draft EIS is most helpful. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3, in addressing these points.)

The final EIS is expected to be released in December, 1998.

The Forest Supervisor for the Manti-La Sal National Forest and Utah State Director of the Bureau of Land Management, who are the responsible officials for the EIS, will then make their respective decisions regarding this proposal, after considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The rationale for the respective agency decisions will be documented in the Record(s) of Decisions.

Dated: February 11, 1998.

**Janette S. Kaiser,**

*Forest Supervisor, Manti-La Sal National Forest.*

[FR Doc. 98–4168 Filed 2–18–98; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Rural Business—Cooperative Service

### Notice of Request for Extension of a Currently Approved Information Collection

**AGENCY:** Rural Business—Cooperative Service, USDA.

**ACTION:** Proposed collection; comments request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Rural Business-Cooperative Service (RBS) to request an extension for a currently approved information collection in support of the Cooperative Development Division (CDD), Cooperative Development Program.

**DATES:** Comments on this notice must be received by April 20, 1998 to be assured of consideration.

**FOR FURTHER INFORMATION CONTACT:** John Wells, Director, Cooperative Development Division, Rural Business-Cooperative Service, USDA, STOP 3254, 1400 Independence Avenue, SW., Washington, DC 20250–3254, Telephone: (202) 720–3350.

**SUPPLEMENTARY INFORMATION:**

*Title:* Cooperative Services Questionnaire:

New Cooperative Volume and Structure, Producer Survey for New Cooperative Activity.

*OMB Number:* 0570–0008.

*Expiration Date of Approval:* May 31, 1998.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* The Rural Business-Cooperative Service (RBS) Cooperative Services Programs conducts feasibility studies to assist in the development of new cooperatives. The Cooperative Development Division (CDD) specializes

in technical assistance to agricultural and rural producer groups interested in organizing a cooperative, and to emerging or developing co-ops, so they can: (a) Use sensible economic judgment, (b) determine co-op feasibility, (c) meet an economic need, (d) successfully operate on sound business principles and, (e) increase member income. In order to carry out the Agency's mission, RBS needs to collect information from the cooperative community.

The authority to carry out RBS mission is defined in the Cooperative Marketing Act of 1926 (44 Stat. 802–1926), and other regulations listed below.

**Authority and Duties of Division (7 U.S.C. & 453)**

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized:

(1) To acquire, analyze and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative associations in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial, and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed to results thereof, and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

(4) To confer and advise with committees or groups of producers, if deemed advisable, that may be desirous of forming a cooperative association and to make an economic survey and analysis of the facts surrounding the production and marketing of the agricultural product or products which the association, if formed, would handle or market.

(5) To acquire from all available sources information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of the agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations, and others.

(6) To promote the knowledge of cooperative principles and practices and to cooperate, in promoting such knowledge, with educational and marketing agencies, cooperative associations, and others.

(7) To make such special studies, in the United States and foreign countries, and to acquire and disseminate such information and findings as may be useful in the development and practice of cooperation.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1 hour per response.

*Respondents:* Mainly producers of agricultural products in domestic market areas in which proposed cooperatives would be expected to market their member's products.

*Estimated Number of Respondents:* 245.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 245 hours per year.

Copies of this information collection can be obtained from Diana Wareham, Regulations and Paperwork Management Branch, at (202) 720–1975.

*Comments:* Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection techniques or other forms of information technology. Comments may be sent to Diana Wareham, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0743, 1400 Independence Avenue, SW., Washington, DC 20250–0743. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: February 11, 1998.

**Dayton J. Watkins,**

*Administrator, Rural Business—Cooperative Service.*

[FR Doc. 98–4170 Filed 2–18–98; 8:45 am]

BILLING CODE 3410–XV–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on Tuesday, March 24, 1998, at the Christian Tutwiler Hotel, 2021 Park Place North, Birmingham, Alabama 32503. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 6, 1998.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 98–4119 Filed 2–18–98; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Nebraska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on March 5, 1998, at the Double Tree Hotel, 1616 Dodge Street, Omaha, Nebraska 68102. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact

Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 4, 1998.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 98–4117 Filed 2–18–98; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:30 p.m. on Tuesday, March 3, 1998, at the Rivier College, Dion Center, Conference Room, 420 Main Street, Nashua, New Hampshire 03060. The purpose of the meeting is to discuss ideas for future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Acting Chairperson Andrew Stewart, 603–632–7543, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 6, 1998.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 98–4120 Filed 2–18–98; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 4:00 p.m. on Wednesday, March 4, 1998, at the North Carolina A & T University, Hodgin Hall, Greensboro, North Carolina 27411. The purpose of the meeting is to review the status of the Commission and its advisory committees; discuss the status of the report on racial tension in North Carolina; discuss future projects; and discuss civil rights progress/problems in North Carolina and the Nation.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 4, 1998.

**Carol-Lee Hurley,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 98–4118 Filed 2–18–98; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Hearing on Police—Community Relations—Sonoma County

**AGENCY:** Commission on Civil Rights.

**ACTION:** Notice of hearing cancellation.

**SUMMARY:** Notice is hereby given pursuant to the provisions of the Civil Rights Commission Amendments Act of 1994, Section 3, Public Law 103–419, 108 Stat. 4338, as amended, and 45 CFR 702.3, that a public hearing before a Subcommittee of the U.S. Commission on Civil Rights which was to have commenced on Friday, February 20, 1998, beginning at 8:30 a.m., in the Justice Joseph A. Rattigan Building, in Conference Room 410, located at 50 D Street, Santa Rosa, CA 95404, has been cancelled, Notice of said hearing was published in the **Federal Register** on January 28, 1998, FR Doc. 98–2113, 63 FR 4218, No. 18.

**FOR FURTHER INFORMATION CONTACT:** Barbara Brooks, Press and Communications (202) 367–8312.

Dated: February 12, 1998.

**Stephanie Y. Moore,**

*General Counsel.*

[FR Doc. 98–4094 Filed 2–18–98; 8:45 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* Bureau of the Census.

*Title:* Construction Progress Reporting Surveys:

0607–0153 Construction Project Report (Private Construction Projects, C–700)

0607–0163 Construction Project Report (Multifamily Residential, C–700(R))

0607–0171 Construction Project Report (State & Local Government, C–700(SL))

*Type of Request:* Extension of currently approved collections.

*Burden:* 0607–0153—18,000 hours; 0607–0163—4,320 hours; 0607–0171—18,000 hours.

*Number of Respondents:* 0607–0153—6,000; 0607–0163—1,440; 0607–0171—6,000.

*Avg. Hours Per Response:* 15 minutes.

*Needs and Uses:* The Census Bureau conducts the Construction Project Reporting Surveys (CPRS) to provide the dollar value of construction put in place by private companies, individuals, private multifamily residential buildings, and state and local government sectors. The C–700 form (Private Construction Projects) collects construction put in place data for nonresidential projects owned by private companies or individuals. The C–700(R) (Multifamily Residential Projects) form collects construction put in place data for private multifamily residential buildings. Form C–700(SL) (State and Local Government Projects) collects construction put in place data for state and local government projects.

The Census Bureau uses the information from the CPRS to publish the value of construction put in place series. Published estimates are used by a variety of private business and trade

associations to estimate the demand for building materials and to schedule production, distribution, and sales efforts. They also provide various governmental agencies with a tool to evaluate economic policy and to measure progress towards established goals. For example, Bureau of Economic Analysis staff use data to develop the construction components of gross private domestic investment in the gross domestic product. The Federal Reserve Board and the Department of Treasury use the value in place data to predict the gross domestic product, which is presented to the Board of Governors and has an impact on monetary policy.

*Affected Public:* Individuals or households, Businesses or other for-profit organizations, not-for-profit institutions, and State, local or tribal government.

*Frequency:* Monthly.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* 13 USC, Section 182.

*OMB Desk Officer:* Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: February 11, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 98–4099 Filed 2–18–98; 8:45 am]

**BILLING CODE 3510–07–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This collection has been submitted under the emergency Paperwork Reduction Act procedures.

*Agency:* National Institute of Standards and Technology (NIST).

*Title:* Provisional Listing of Facilities and Registrars.

*Agency Form Number:* None.

*OMB Approval Number:* None.

*Type of Request:* New Collection—Emergency Review.

*Burden:* 200 reporting/recordkeeping hours.

*Number of Respondents:* 50.

*Avg. Hours Per Response:* 3 hours for reporting requirements; one hour for recordkeeping.

*Needs and Uses:* NIST has determined that the implementation of the Fastener Quality Act (FQA) may cause undue burden on the industry or force NIST to postpone the implementation date. The fastener industry affected by this collection of information uses a quality assurance system of manufacturing that has to be registered through NIST-approved accreditors for FQA.

Because the registration cannot be accomplished before the implementation date, NIST has developed an alternative approach. NIST will be collecting information from persons seeking provisional listing. The information obtained will provide assurance that applicant organizations comply with the Act during the one-year provisional listing period.

*Affected Public:* Businesses or other for-profit organizations.

*Respondent's Obligation:* Required to obtain a benefit.

*OMB Desk Officer:* Maya Bernstein, (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maya Bernstein, OMB Desk Officer, Room 10236, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503. A clearance has been requested by Tuesday, February 24, 1998.

Dated: February 12, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 98–4161; Filed 2–18–98; 8:45 am]

**BILLING CODE: 3510–13–P**

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### The American Community Survey (ACS)

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(C)(2)(A)).

**DATES:** Written comments must be submitted on or before April 20, 1998.

**ADDRESSES:** Direct all written comments to Linda Englemeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Cynthia Taeuber, Bureau of the Census, Demographic Statistical Methods Division, Washington, DC 20233. Her telephone number is (301) 457–2899.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The American Community Survey (ACS), which the Census Bureau initiated in November 1995 with the demonstration phase, is a continuing full-scale operation of a continuous measurement system. Continuous measurement is a reengineering of the method for collecting the housing and socio-economic data traditionally collected in the decennial census. It provides data every year instead of once in ten years. It blends the strength of small-area estimation from the census with the quality and timeliness of the continuing surveys through a large monthly survey.

The Census Bureau began the ACS in four sites, added new sites each of the last two years, and now presently conducts the ACS in ten sites.

Starting in November 1998, the Census Bureau plans to introduce the comparison phase of the continuous measurement system. The Census Bureau plans to conduct the ACS in 37 sites, which include 46 counties or county equivalents, across the country. This three-year period of data collection will allow the Census Bureau to make direct comparisons between the ACS and the Census 2000 long form. In November 1998, the Census Bureau also plans to add eight additional sites (ten counties or county equivalents) to balance the workload among the regional offices, and to give field staff experience in preparation for an

expanded ACS starting in November 1999. The 45 sites provide a broad mix of geographic and demographic areas, ranging from counties with large, central cities to sparsely populated rural areas.

In addition to selecting a sample of residential addresses, the Census Bureau will select a sample of group quarters and conduct the ACS with a sample of persons within the group quarters. The Census Bureau is also developing and will implement procedures for a reinterview operation to monitor the quality of data collected during Computer Assisted Personal Interviewing.

This phase of the American Community Survey is designed primarily to collect information necessary to understand differences between estimates derived from the ACS and the Census 2000 long form. This phase will help the Census Bureau and the Federal government better understand the costs and benefits of a continuous measurement system.

The content of the ACS will be basically the same as the content in the Census 2000 long form. There are some differences to reflect the fact that ACS will be in place every month.

**II. Method of Collection**

The Census Bureau will mail questionnaires to households selected for the ACS. For households that do not return questionnaires, Census Bureau staff will attempt to conduct interviews via Computer Assisted Telephone Interviewing and Computer Assisted Personal Interviewing.

**III. Data**

*OMB Number:* 0607–0810.

*Form Number:* ACS–1, ACS–10, ACS–12(L), ACS–13(L), ACS–14(L), ACS–16(L), ACS–20, ACS–30.

*Type of Review:* Regular.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 425,000 households, 30,000 persons in group quarters, 5,000 households in reinterview.

*Estimated Time Per Response:* 38 minutes per household, 15 minutes per person in group quarters, 10 minutes per household in the reinterview sample.

*Estimated Total Annual Burden Hours:* 277,500.

*Estimated Total Annual Cost:* Except for a few minutes of their time, there is no cost to respondents.

*Respondent Obligation:* Mandatory.

*Authority:* Title 13, United States Code, Section 182.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collections techniques or others forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 11, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 98–4097 Filed 2–18–98; 8:45 am]

BILLING CODE 3510–07–P

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### Statement of Ultimate Consignee and Purchaser

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before April 20, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawnielle Battle, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC, 20230.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The form is required in support of an export license application where the country of ultimate destination is in Country Group Q, S, V, W, Y or Z. It is used by licensing officers in determining the validity of the end-use. A primary benefit of having the form completed is to put the importer on notice of the special nature of the goods and receive a commitment against illegal disposition.

**II. Method of Collection**

Submitted to BXA on form BXA–711P or company letterhead.

**III. Data**

*OMB Number:* 0694–0021.

*Form Number:* Form BXA–711.

*Type of Review:* Regular submission for extension of a currently approved collection.

*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.

*Estimated Number of Respondents:* 8,350.

*Estimated Time Per Response:* 31 minutes per response.

*Estimated Total Annual Burden Hours:* 4,289.

*Estimated Total Annual Cost:* $126,585.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: February 11, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 98–4101 Filed 2–18–98; 8:45 am]

BILLING CODE 3510–DT–P

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### U.S. Industry Reporting Requirements for Compliance With the Chemical Weapons Treaty

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before April 20, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawn Battle, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC, 20230.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Chemical Weapons Convention (CWC) will ban the development, production, acquisition, stockpiling, retention and direct or indirect transfer of chemical weapons. Under the CWC, companies that produce, process, consume or utilize certain chemicals must file initial and annual declarations. This information will be submitted to the Organization for the Prohibition of Chemical Weapons (OPCW), the treaty's international body. The collection of this information is required to comply with the treaty.

#### II. Method of Collection

Submitted on BXA Declaration forms.

#### III. Data

*OMB Number:* 0694–0091.
*Form Number:* None.
*Type of Review:* Regular submission for extension of a currently approved collection.
*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.
*Estimated Number of Respondents:* 2,199.
*Estimated Time Per Response:* 5 hours per response.
*Estimated Total Annual Burden Hours:* 11,301.
*Estimated Total Annual Cost:* $46,240.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: February 11, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 98–4102 Filed 2–18–98; 8:45 am]

**BILLING CODE 3510–DT–P**

## DEPARTMENT OF COMMERCE

### Annual Report From Foreign-Trade Zone Grantee to the Foreign-Trade Zones Board

### International Trade Administration

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before April 20, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482–3272.

**FOR FURTHER INFORMATION CONTACT:** Request for additional information or copies of the information collection instructions should be directed to: Claudia Hausler, Foreign Trade Zones Staff, Room 3716, 14th & Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482–2862, and fax number: (202) 482–0002. The FTZ Annual Report Form and Guidelines, as well as the Regulations, are available on-line at http://www.ita.doc.gov/import_admin/records/ftzpage/ftzhome.htm.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Foreign-Trade Zone Annual Report is the vehicle by which Foreign Trade Zone (FTZ) grantees report annually to the Foreign Trade Zones Board, pursuant to the requirements of the Foreign Trade Zones Act (19 U.S.C. 81a–81u). The annual reports submitted by grantees are the only complete source of compiled information on FTZ's. The data and information contained in the reports relates to international trade activity in FTZ's. The reports are used by the Congress and the Department to determine the economic effect of the FTZ program. The reports are also used by the FTZ Board and other trade policy officials to determine whether zone activity is consistent with U.S. international trade policy, and whether it is in the public interest. The public uses the information regarding activities carried on in FTZ's to evaluate their effect on industry sectors. The information contained in annual reports also helps zone grantees in their marketing efforts.

#### II. Method of Collection

FTZ grantees submit annual reports to the Foreign-Trade Zones Board.

#### III. Data

*OMB Number:* 0625–0109.
*Form Number:* ITA–359P.
*Type of Review:* Regular Submission.
*Affected Public:* State, local, or tribal governments or not-for-profit institutions which are FTZ grantees.
*Estimated Number of Respondents:* 150.
*Estimated Time Per Response:* 37 to 180 hours (depending on the size and structure of the FTZ).
*Estimated Total Annual Burden Hours:* 11,881 hours.
*Estmated Total Annual Costs:* The estimated annual cost for this collection is $471,906.00 ($401,002.00 for submitters and $70,904.00 for federal government).

### IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 11, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 98–4098 Filed 2–18–98; 8:45 a.m]

**BILLING CODE 3510–DS**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Foreign Trade Zone Application

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2) (A)).

**DATES:** Written comments must be submitted on or before April 20, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482–3272.

**FOR FURTHER INFORMATION CONTACT:** Request for additional information or copies of the information collection instructions should be directed to: Kathleen A. Boyce, Foreign Trade Zones Staff, Room 3716, 14th & Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482–2862, and fax number: (202) 482–0002. The FTZ Application Guidelines, as well as the Regulations, are available on-line at http://www.ita.doc.gov/import__admin/records/ftzpage/ftzhome.htm.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The Foreign Trade Zones Application is the vehicle by which individual firms or organizations apply for foreign-trade zone (FTZ) status, for subzone status, or for expansion of an existing zone. The FTZ Act and Regulations require that an application with a description of the proposed project be made to the FTZ Board (19 U.S.C. 81b and 81f; 15 CFR 400.24–26) before a license can be issued or a zone can be expanded. The Act and Regulations require that applications contain detailed information on facilities, financing, operational plans, proposed manufacturing operations, need, and economic impact. Manufacturing activity in zones, which is primarily conducted in subzones can involve issues related to domestic industry and trade policy impact. Such applications must include specific information on the Customs-tariff related savings that result from zone procedures and the economic consequences of permitting such savings. The FTZ Board needs complete and accurate information on the proposed operation and its economic effects because the Act and Regulations authorize the Board to restrict or prohibit operations that are detrimental to the public interest.

### II. Method of Collection

U.S. firms or organizations submit applications to the Foreign-Trade Zones Board.

### III. Data

*OMB Number:* 0625–0139.
*Form Number:* N/A.
*Type of Review:* Regular Submission.
*Affected Public:* State, local, or tribal governments or not-for-profit institutions applying for foreign trade zone status, for subzone status, or for modification of existing status.
*Estimated Number of Respondents:* 100.
*Estimated Time Per Response:* 20 to 120 hours (depending on type of application).
*Estimated Total Annual Burden Hours:* 9,314 hours.
*Estimated Total Annual Costs:* The estimated annual cost for this collection is $864,442.00 ($249,402.00 for applicants and $615,040.00 for federal government).

### IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c)ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 11, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of Management and Organization*

[FR Doc. 98–4100 Filed 2–18–98; 8:45 a.m]

**BILLING CODE: 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–823]**

### Professional Electrical Cutting Tools From Japan: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of extension of time limit for preliminary results of antidumping duty administrative review.

**SUMMARY:** The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the review of professional electrical cutting tools from Japan. This review covers the period July 1, 1996 through June 30, 1997.

**EFFECTIVE DATE:** February 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** Lyn Baranowski or Stephen Jacques at (202) 482–1385 or 482–1391, respectively; Office of AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

**The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

**Postponement of Preliminary Results**

The Department has determined that it is not practicable to issue its preliminary results within the original time limit. (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration, February 11, 1998). The Department is extending the time limit for completion of the preliminary results until June 1, 1998 in accordance with Section 751(a)(3)(A) of the Act. The Department is also extending the time limit for submission of factual information up to an additional 60 days.

The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

Dated: February 12, 1998.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Enforcement Group III.*

[FR Doc. 98–4212 Filed 2–18–98; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–401–040]**

### Stainless Steel Plate From Sweden: Amended Final Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Amended Final Results of Antidumping Duty Administrative Review.

**SUMMARY:** On January 12, 1998, the Department of Commerce (the Department) published the final results of the review of the antidumping duty finding on stainless steel plate from Sweden. The review covered two manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1995 through May 31, 1996. On January 14, 1998, Avesta Sheffield (Avesta) filed ministerial error comments with regard to these final results of review. Based on our correction of a ministerial error, we are amending our final results for Avesta.

**EFFECTIVE DATE:** February 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Heaney or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4475/3833.

**Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 353 (1997).

**SUPPLEMENTARY INFORMATION:**

*Background*

On January 12, 1998 the Department published the final results of the administrative review covering the period June 1, 1995 through May 31, 1996. On January 14, 1998, Avesta filed an allegation that the Department made a ministerial error in the final results.

*Scope of the Review*

Imports covered by this review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is classified under Harmonized Tariff schedule of the United States (HTSUS) item numbers 7219.11.00.00, 7219.12.00.05, 7219.12.00.15, 7219.12.00.45, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.21.00.05, 7219.21.00.50, 7219.22.00.05, 7219.22.00.10, 7219.22.00.30, 7219.22.00.60, 7219.31.00.10, 7219.31.00.50, 7220.11.00.00, 7222.30.00.00, and 7228.40.00.00. Although the subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

On July 11, 1995, the Department determined that Stavax ESR (Stavax), UHB Ramax (Ramax), and UHB 904L (904L) when flat-rolled are within the scope of the antidumping finding.

On November 3, 1995, the Department determined that stainless steel plate products Stavax, Ramax, and 904L when forged, are within the scope of the antidumping finding.

The review covers the period June 1, 1995 through May 31, 1996. The Department has now completed this review in accordance with section 751 of the Act, as amended.

*Ministerial Error*

On January 12, 1998 Avesta filed an allegation of ministerial error. Avesta submitted revised model match and difference of merchandise (difmer) information on April 24, 1997. In reviewing the Department's preliminary results (July 8, 1997, 62 FR 36495), Avesta noted that the Department occasionally matched US product months with home market product months that differed from those in Avesta's April 24, 1997 submission. The Department corrected this error in its final results. In correcting this error, however, Avesta notes that the Department incorrectly applied difmer information from Avesta's January 27, 1997 submission.

We agree with Avesta that we incorrectly calculated difmer in our final results, and that this constitutes a ministerial error pursuant to 19 CFR 351.28(d). We have corrected this ministerial error in these amended final results, and have based our calculation of difmer on the data provided by Avesta in its April 24, 1997 submission.

**Amended Final Results of Review**

As a result of our correction of a ministerial error, we determine that the weighted average margin for Avesta is 24.67 percent for the period June 1, 1995 through May 31, 1996.

The U.S. Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between U.S. price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of stainless steel plate from Sweden entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The amended cash deposit rate for Avesta will be the rate stated above, (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company specific rate published for the most recent period, (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither

the exporter nor the manufacturer is a firm covered in this or any previous reviews or the original fair value investigation, the cash deposit rate will be 4.46%.

We will calculate importer-specific duty assessment rates on a unit value per pound basis. To calculate the per pound unit value for assessment, we summed the margins on U.S. sales with positive margins, and then divided this sum by the entered pounds of all U.S. sales.

These amended final results of administrative review and notice are in accordance with section 751(a)(1) and (h) of the Act (19 U.S.C. 1675(a)(1) and (h)) and 19 CFR 353.28.

Dated: February 11, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98–4211 Filed 2–18–98; 8:45 am]

BILLING CODE 3510–DS–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 021098G]**

### Endangered Species; Permits

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Receipt of applications for scientific research permits (1120, 1123, 1124, 1126, and 1127) and modification 1 to permit 998. Issuance of scientific research permits (1094, 1106, 1107) and amendments to permits 822, 847, and 848.

**SUMMARY:** Notice is hereby given that the following have applied in due form for permits that would authorize takes or possession of ESA-listed species for the purpose of scientific research and/or enhancement: the Idaho Department of Fish and Game at Boise, ID (IDFG) (1120); Mr. Edgard O. Espinoza, Deputy Laboratory Director of the National Fish and Wildlife Forensic Laboratory (1123); the Idaho Department of Fish and Game at Boise, ID (IDFG) (1124); the Washington Department of Fish and Wildlife at Olympia, WA (WDFW) (1126); and the Shoshone-Bannock Tribes at Fort Hall, ID (SBT) (1127). Notice is also given that NMFS has issued permits to: the Washington Department of Fish and Wildlife at Olympia, WA (WDFW) (1094); David Wm. Owens, of Texas A&M University (1106); and Dr. Issac Wirgin, of Institute of Environmental Medicine - New York University Medical Center (1107). Notice is further given that NMFS has issued amendments to permits to the Fish Passage Center at Portland, OR (FPC) (822); the Oregon Department of Fish and Wildlife at La Grande, OR (ODFW) (847); and WDFW at Olympia, WA (848).

**DATES:** Written comments or requests for a public hearing on these requests must be received on or before March 23, 1998.

**ADDRESSES:** The application, permit, and related documents are available for review by appointment in the following offices:

Applications for permits 1106 and 1107: Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141). The application for permit 1107 may also be reviewed at: Director, Northeast Region, NMFS, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298 (508–281–9250)

Applications for permits 822, 847, 848, 1094, 1120, 1124, 1126, and 1127, and modification request for permits 998: Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Application for permit 1123: Office of Protected Resources, F/PR3, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401).

All documents may also be reviewed by appointment in the Office of Protected Resources, Endangered Species Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–1401).

**FOR FURTHER INFORMATION CONTACT:** For permits 822, 847, 848, 998, 1094, 1120, 1124, 1126, and 1127: Robert Koch, Protected Resources Division, 503–230–5424.

For permits 1107 and 1123: Terri Jordan, Endangered Species Division, 301–713–1401.

For permit 1106: Michelle Rogers, Endangered Species Division, 301–713–1401.

**SUPPLEMENTARY INFORMATION:** Permits are requested under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Issuance of these permits, modifications, and amendments, as required by the ESA, was based on a finding that such permits, modifications, and amendments: (1) Were applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. These permits, modifications, and amendments were also issued in accordance with and are subject to parts 217-222 of Title 50 CFR, the NMFS regulations governing listed species permits.

To date, protective regulations for threatened Snake River steelhead under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of applications requesting a take of this species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of Snake River steelhead. The initiation of a 30-day public comment period on the application, including its proposed take of Snake River steelhead, does not presuppose the contents of the eventual protective regulations.

#### Applications Received

IDFG (1120) requests a five-year permit that would authorize takes of adult and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with the continuation of a captive broodstock program, currently provided by permit 795. Permit 795 is due to expire on May 31, 1998. The captive broodstock program will help to preserve and perpetuate the species and provide Snake River sockeye salmon for future recovery actions. The captive broodstock program is a cooperative effort among IDFG, NMFS, SBT, the University of Idaho, the Idaho Department of Environmental Quality, and the Bonneville Power Administration (BPA). Funding is provided by BPA. ESA-listed adult and juvenile fish are proposed to be trapped annually by IDFG to obtain individuals for propagating the species in captivity. The resulting progeny are proposed to be reared in IDFG hatcheries and/or transported to NMFS hatcheries for rearing. ESA-listed juvenile fish generated from the captive broodstock program are proposed to be transported from the hatcheries and released into Stanley Basin lakes (Redfish, Pettit, and Alturas Lakes) and outlet streams

annually. ESA-listed juvenile fish are proposed to be observed by snorkeling or captured and tagged with passive integrated transponders for scientific monitoring and evaluation purposes. ESA-listed adult fish are proposed to be observed during redd counts or captured, tagged with radiotransmitters, and tracked electronically. ESA-listed juvenile fish indirect mortalities associated with scientific research and transportation activities are also requested.

Mr. Edgard O. Espinoza, Deputy Laboratory Director of the National Fish and Wildlife Forensic Laboratory (1123) requests authorization to possess and conduct research on listed, non-marine mammal, non-reptilian species using tissue samples (fin clips, barbels, blood, muscle, skin) to provide technical support that is responsive to FWS goals involving protected and endangered species, via law enforcement. The application requests the ability to maintain samples of non-marine mammal, or reptile listed species obtained from permitted individuals and by Federal, state or local law enforcement agents for the purposes of archival.

IDFG (1124) requests a 5-year permit that would authorize takes of adult and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*); adult and juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*); adult and juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); and adult and juvenile, threatened, Snake River steelhead (*Oncorhynchus mykiss*) associated with scientific research conducted throughout the state of ID. IDFG proposes to conduct seven research tasks: (1) General fish population inventories; (2) spring/summer chinook salmon natural production monitoring and evaluation; (3) spring/summer chinook salmon supplementation research; (4) Redfish Lake, Pettit Lake, and Alturas Lake kokanee/sockeye salmon research; (5) salmon and steelhead fish health monitoring; (6) steelhead natural production monitoring and evaluation; and (7) steelhead supplementation research. IDFG proposes to observe/harass ESA-listed species during surveys and redd counts and to employ seines, traps, and electrofishing to capture ESA-listed fish to apply passive integrated transponder (PIT) tags, radio tags, and other marks for migration studies. ESA-listed juvenile fish lethal takes are requested. ESA-listed fish indirect mortalities and incidental takes associated with scientific research activities are also requested.

WDFW (1126) requests a 5-year permit that would authorize takes of adult and juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon; juvenile, threatened, Snake River fall chinook salmon; and adult and juvenile, threatened, Snake River steelhead associated with scientific research conducted in the Snake River Basin in WA. The new permit is proposed to replace the take authorization currently provided in permit 848, which is due to expire on March 31, 1998. WDFW proposes to conduct three classes of research activities: (1) Summer juvenile fish monitoring using snorkeling and electrofishing, (2) juvenile fish migrant monitoring using smolt traps and PIT tags, and (3) adult fish monitoring using spawning ground surveys and the application of radio tags. ESA-listed fish indirect mortalities associated with scientific research activities are also requested.

SBT (1127) requests a 5-year permit that would authorize takes of adult and juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon and adult and juvenile, threatened, Snake River steelhead associated with scientific research conducted throughout the Salmon River Basin in the state of ID. SBT proposes to conduct six research tasks: (1) Snorkel surveys; (2) spawning ground surveys; (3) juvenile chinook salmon migrant monitoring using a rotary screw trap and PIT tags; (4) juvenile fish migration timing and movement at the Yankee Fork using fyke nets; (5) juvenile chinook salmon and steelhead abundance and condition factor estimates at the Yankee Fork using electrofishing and seines; and (6) juvenile chinook salmon PIT-tagging using electrofishing, seines, hook and line, and other methods to capture fish. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

SBT requests modification 1 to permit 998. Permit 998 authorizes SBT a take of juvenile, endangered, Snake River sockeye salmon associated with scientific research designed to enumerate the annual smolt outmigration at Pettit Lake in ID for the purpose of evaluating overwinter survival, monitoring downstream migration, and calculating smolt-to-adult return ratios. For modification 1, SBT requests an increase in the take of ESA-listed juvenile sockeye salmon and a take of juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) and juvenile, threatened, Snake River steelhead (*Oncorhynchus mykiss*) associated with a similar study at Alturas lake in ID. ESA-listed juvenile fish are proposed to be captured using a screw trap, handled, and released. A portion of the ESA-listed juvenile sockeye salmon to be handled are proposed to be anesthetized, marked with a small cut on the caudal fin, allowed to recover from the anesthetic, and released upstream of the trap. Sockeye salmon smolts captured at the trap following upstream release are proposed to be anesthetized, inspected for the caudal fin mark, allowed to recover from the anesthetic, and released as a means of determining trap efficiency. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

**Permits Issued**

Notice was published on October 14, 1997 (62 FR 53319) that an application had been filed by WDFW (1094) for a scientific research/enhancement permit. Permit 1094 was issued to WDFW on February 4, 1998. Permit 1094 authorizes WDFW annual direct takes of adult and juvenile, endangered, naturally-produced and artificially-propagated, upper Columbia River steelhead (*Oncorhynchus mykiss*) associated with a hatchery supplementation program in the mid- to upper Columbia River Basin. An incidental take of ESA-listed fish associated with releases from WDFW's hatchery supplementation program is also authorized. Permit 1094 will expire on May 31, 2003.

Notice was published on November 17, 1997 (62 FR 61296) that an application had been filed by David Wm. Owens, Texas A&M University, (1106) to take listed sea turtles as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222). Dr. Owens requested a scientific research permit to weigh, measure, blood sample, and satellite, PIT and flipper tag up to 15 loggerhead (*Caretta caretta*), 5 hawksbill (*Eretmochelys imbricata*), and 10 Kemp's ridley (*Lepidochelys kempii*) turtles at the Flower Garden Banks National Marine Sanctuary, Gulf of Mexico. Additionally, the applicant requested authorization to use ultrasonography, a non-invasive technique that allows imaging of a female turtle's ovaries, on captured turtles. The turtles are to be captured by

hand using SCUBA and a catch bag. The purpose of the research is to collect information on habitat utilization, migration, and reproductive biology. On January 15, 1998, NMFS issued Permit 1106 authorizing the above activities.

Notice was published on December 17, 1997 (62 FR 66053) that an application had been filed by Dr. Issac Wirgin, of Institute of Environmental Medicine - New York University Medical Center (1107) , to possess tissue samples of listed shortnose sturgeon (*Acipenser brevirostrum)* as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222). The purpose of the research is to determine if shortnose sturgeon exhibit genetic variation throughout their Atlantic coast range. The permit holder is not authorized to conduct any field collection exercises to obtain the samples. All of the samples must be obtained from previously authorized sources (permitted researchers, law enforcement authorities). All tissue samples will be maintained in a laboratory at the Institute of Environmental Medicine, New York University Medical Center.

An amendment to FPC's scientific research permit 822 was issued on February 10, 1998. Permit 822 authorizes FPC takes of endangered and threatened Snake River salmon associated with the Smolt Monitoring Program (SMP), conducted in part at the dams on the Snake and Columbia Rivers. The amendment provides an extension of the permit through December 31, 1998. On December 29, 1997, the permit was extended to expire on May 31, 1998 (63 FR 2364). An additional extension of permit 822 is necessary to synchronize the duration of the permit with permit 895, the permit that authorizes the U.S. Army Corps of Engineers (Corps) takes of ESA-listed species associated with the Federal Columbia River Power System (FCRPS) juvenile fish transportation program (Permit 895 expires on December 31, 1998). Since the SMP is integral to the implementation of the FCRPS biological opinion, the coordination of these two permits will allow NMFS to better monitor the cumulative impacts to ESA-listed species as a consequence of activities conducted by both FPC and the Corps.

Amendments to scientific research/enhancement permits 847 and 848 were issued on February 6, 1998. The amendments provide an extension of the duration of each permit through June 30, 1998. The permits were due to expire on March 31, 1998. Permits 847 and 848 authorize ODFW and WDFW respectively takes of adult and juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with hatchery supplementation programs. Extensions of the permits are necessary to allow ODFW and WDFW to continue enhancement activities while NMFS processes applications for new permits.

Dated: February 10, 1998.

**Patricia A. Montanio,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 98–4213 Filed 2–18–98; 8:45 am]

BILLING CODE 3510–22–F

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 98–C0007]**

### In the Matter of Binky-Griptight, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Binky-Griptight, Inc., a corporation, containing a civil penalty of $150,000.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by March 6, 1998.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 98–C0007, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

**FOR FURTHER INFORMATION CONTACT:**

Traci J. Williams, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0626.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: February 12, 1998.

**Sadye E. Dunn,**

*Secretary.*

*In the Matter of Binky-Griptight, Inc. a Corporation; Settlement Agreement and Order*

1. Binky-Griptight, Inc. (''Binky-Griptight''). a corporation, enters into this Settlement Agreement and Order with the staff of the Consumer Product Safety Commission (''Commission'' or CPSC'') under the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2051–2084. The Settlement Agreement and Order comply with the procedures set forth in the Commission's Procedures for Consent Order Agreements. 16 CFR 1118.20.

### I. The Parties

2. The ''staff'' is the staff of the Consumer Product Safety Commission, an independent regulatory commission of the United States of America, established pursuant to section 4 of the CPSA, 15 U.S.C. 2053.

3. Binky-Griptight, Inc. is a corporation organized and existing under the laws of the State of New Jersey, with its principal corporate offices located at 519–523 Paterson Avenue, P.O. Box 3307, Wallington, New Jersey 07057.

### II. Allegations of the Staff

4. Between April 1994 and August 1995, Binky-Griptight imported defective Binky Soft Latex Nipple Newborn Orthodontic pacifiers (''Li'l Binks''). Consequently, Binky-Griptight is a ''manufacturer'' as the term is defined in section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4).

5. The Li'l Binks were sold in retail stores throughout the United States. They were used by infants in their homes. As a result, the Li'l Binks are ''consumer products'' which were ''distributed in commerce'' as those terms are defined in section 3(a) (1) and (11) of the CPSA, 15 U.S.C. 2052(a) (1) and (11).

6. The handle of the Li'l Bink, which held the plug and the nipple, could crack and, if the cracking were severe, could cause the nipple and the plug to separate from the handle. If they separated from the handle, a child could choke on either the nipple or the plug. In May 1995, Binky-Griptight learned that the handle could crack. Also, Binky-Griptight received complaints about the cracked handles and detached plugs and nipples of the Li'l Bink. In September 1995, Binky-Griptight recalled the Li'l Binks from its customers.

7. Binky-Griptight obtained information which reasonably supported the conclusion that the Li'l Binks contained defects which could create a substantial product hazard or an unreasonable risk of serious injury or death, but failed to report that information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

**III. Response of Binky Griptight, Inc.**

8. Binky-Griptight, Inc. denies the allegations of the staff that the Li'l Binks contained any defects which could create a substantial product hazard or an unreasonable risk of serious injury or death, pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a); it denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b).

9. Binky-Griptight further states that after it identified and corrected the cracking problem and conducted a further recall with the oversight of Commission staff, it also ceased distribution of the affected style of pacifier in 1996. To date, Binky-Griptight has not received any claims or allegation of injury from the Li'l Binks covered by this settlement.

**IV. Agreement of the Parties**

10. The Commission has jurisdiction over this matter under the CPSA, 15 U.S.C. 2051–2084.

11. Binky-Griptight agrees to pay the Commission one hundred and fifty thousand and 00/100 dollars ($150,000.00), payable as follows: $50,000 twenty days after final acceptance of the Order, $50,000 on the one-year anniversary date of the final acceptance of the Order, and $50,000 on the two-year anniversary date of the final acceptance of the Order.

2. Binky-Griptight knowingly, voluntarily, and completely waives any rights it may have to an administrative or judicial hearing with respect to the staff allegations cited herein, to judicial review or other challenge or contest of the validity of the Commission's Order, to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), occurred, and to a statement of findings of fact and conclusion of law with regard to the staff allegations.

13. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR § 1118.20(e).

14. The Settlement Agreement and Order take effect upon final acceptance by the Commission and their service upon Binky-Griptight.

15. Upon final acceptance of this Settlement Agreement by the Commission, the Commission will issue a press release to advise the public of the civil penalty Settlement Agreement and Order.

16. Binky-Griptight agrees to entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

17. This Settlement Agreement and Order are binding upon Binky-Griptight and its assigns and successors.

18. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or contradict its terms.

Dated: January 12, 1998.

Binky-Griptight, Inc.

Kurt Jetta,

*Binky-Griptight, Inc.*

The Consumer Product Safety Commission.

Alan H. Schoem,

*Assistant Executive Director, Office of Compliance.*

Eric L. Stone, Director,

*Division of Administrative Litigation, Office of Compliance.*

Dated: January 21, 1998.

Traci J. Williams, Trial Attorney,

*Division of Administrative Litigation, Office of Compliance.*

**Order**

Having considered the terms and conditions of the Settlement Agreement entered into between Respondent, Binky-Griptight, Inc., a corporation, and the staff of the Consumer Product Safety Commission, having recognized the Commission's jurisdiction over the subject matter and Binky-Griptight, Inc., and having concluded that the Settlement Agreement and Order are in the public interest, it is *ordered* that the Settlement Agreement be and hereby is accepted. And it is *further ordered* that Binky-Griptight, Inc. shall pay the Commission a civil penalty in the amount of one hundred and fifty thousand and 00/100 dollars ($150,000.00), payable as follows: $50,000 twenty days after final acceptance of the Order, $50,000 on the one-year anniversary date of the final acceptance of the Order, and $50,000 on the two-year anniversary date of the final acceptance of the Order.

Upon Failing to make a payment or upon making a late payment, the outstanding balance of the civil penalty is due and payable by Binky-Griptight, Inc., and the interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. 1961 (a) and (b).

Provisionally accepted and Provisional Order issued on the 12th day of February, 1998.

By Order of the Commission.

Sadye E. Dunn,

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 98–4088 Filed 2–18–98; 8:45 am]

BILLING CODE 6355–01–M

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 98–C0006]**

## In the Matter of The Limited, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Provisional Acceptance of a Settlement Agreement under the Flammable Fabrics Act.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Flammable Fabrics Act in the **Federal Register** in accordance with the terms of 16 CFR 1605.13(d). Published below is a provisionally-accepted Settlement Agreement with The Limited, Inc., a corporation, containing a civil penalty of $200,000.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by March 6, 1998.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 98–C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

**FOR FURTHER INFORMATION CONTACT:** Howard Tarnoff, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0626.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: February 11, 1998.

**Sadye E. Dunn,**

*Secretary.*

*In the Matter of The Limited, Inc, a Corporation; Settlement Agreement*

1. The Limited, Inc. and its subsidiary and/or affiliated companies (hereinafter, ''The Limited'' or ''Respondent'') enters

into this Settlement Agreement (hereinafter, ''Agreement'') with the staff of the Consumer Product Safety Commission, and agrees to the entry of the Order incorporated herein. This Agreement and Order are for the sole purpose of settling allegations of the staff that respondent knowingly sold or offered for sale, in commerce, certain sherpa fleece tops and pants, certain cropped-look sweaters, certain pullover chenille sweaters, and certain peloush sweaters that failed to comply with the Standard for the Flammability of Clothing Textiles (hereinafter, ''Clothing Standard''), 16 CFR 1610.

**I. The Parties**

2. The ''staff '' is the staff of the Consumer Product Safety Commission (hereinafter, ''Commission''), an independent regulatory agency of the United States government established pursuant to section 4 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2053.

3. Respondent The Limited is a corporation organized and existing under the laws of the State of Delaware with principal corporate offices at Three Limited Parkway, P.O. Box 16000, Columbus, OH 43216.

**II. Allegations of the Staff**

*A. Sherpa Fleece Tops and Pants*

4. Between June 1994 and December 1994, Respondent sold or offered for sale, in commerce, 409 style 1760 sherpa fleece tops, 394 style 1762 sherpa fleece tops, and 370 style 1018 sherpa fleece pants.

5. The garments identified in paragraph 4 above are subject to the Clothing Standard, 16 CFR 1610, issued under section 4 of the Flammable Fabrics Act (FFA), 15 U.S.C. 1193.

6. On December 9, 1994 and December 19, 1994, Respondent tested the garments identified in paragraph 4 above for compliance with the requirements of the Clothing Standard. On January 4, 1995, the staff tested the garments identified in paragraph 4 above for compliance with the requirements of the Clothing Standard. See 16 CFR §§ 1610.3 and 1610.4. The test results showed that the garments violated the requirements of the Clothing Standard and, therefore, were dangerously flammable and unsuitable for clothing because of rapid and intense burning.

7. Respondent knowingly sold or offered for sale, in commerce, the garments identified in paragraph 4 above, in violation of section 3 of the FFA, 15 U.S.C. 1192, for which a civil penalty may be imposed pursuant to section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1).

*B. Cropped-look Sweaters*

8. Between December 1994 and March 1995, Respondent sold or offered for sale, in commerce, 3 rayon/nylon blend cropped-look sweaters.

9. The sweaters identified in paragraph 8 above are subject to the Clothing Standard, 16 CFR § 1610, issued under section 4 of the FFA, 15 U.S.C. 1193.

10. On December 11, 1995, the importer of the sweaters identified in paragraph 8 tested the sweaters for compliance with the requirements of the Clothing Standard. The test results showed that the sweaters violated the requirements of the Clothing Standard, and, therefore, were dangerously flammable and unsuitable for clothing because of rapid and intense burning.

11. Respondent knowingly sold or offered for sale, in commerce, the sweaters identified in paragraph 8 above, in violation of section 3 of the FFA, 15 U.S.C. 1192, for which a civil penalty may be imposed pursuant to section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1).

*C. Pullover Chenille Sweaters*

12. In May 1996, Respondent imported 19,024 style 0124 rayon/nylon blend pullover chenille sweaters.

13. Between October 14, 1996 and October 24, 1996, Respondent sold or offered for sale, in commerce, the sweaters identified in paragraph 12 above.

14. The sweaters identified in paragraph 12 above are subject to the Clothing Standard, 16 CFR § 1610, issued under section 4 of the FAA, 15 U.S.C. 1193.

15. On October 23, 1996, the staff tested the sweaters identified in paragraph 12 above for compliance with the requirements of the Clothing Standard. The test results showed that the sweaters violated the requirements of the Clothing Standard, and, therefore, were dangerously flammable and unsuitable for clothing because of rapid and intense burning.

16. On November 4, 1996, the staff informed Respondent that the sweaters identified in paragraph 12 above failed to comply with the Clothing Standard and requested that The Limited review the rest of its product line for other potential violations.

17. Respondent knowingly imported, sold, or offered for sale, in commerce, the sweaters identified in paragraph 12 above, in violation of section 3 of the FAA, 15 U.S.C. 1192, for which a civil penalty may be imposed pursuant to section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1).

*D. Peloush Sweaters*

18. In March 1996, Respondent imported 7,000 style 4431 rayon/nylon blend peloush sweaters.

19. Between March 1996 and November 1996, Respondent sold or offered for sale, in commerce, the sweaters identified in paragraph 18 above.

20. The sweaters identified in paragraph 18 above are subject to the Clothing Standard, CFR § 1610, issued under section 4 of the FAA, 15 U.S.C. 1193.

21. On November 8, 1996 and November 11, 1996, Respondent tested the sweaters identified in paragraph 18 above for compliance with the requirements of the Clothing Standard. The test results showed that the sweaters violated the requirements of the Clothing Standard, and, therefore, were dangerously flammable and unsuitable for clothing because of rapid and intense burning.

22. Respondent knowingly sold or offered for sale, in commerce, the sweaters identified in paragraph 18 above, in violation of section 3 of the FFA, 15 U.S.C. 1192, for which a civil penalty may be imposed pursuant to section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1).

**III. Response of The Limited**

23. The Limited denies the allegations of the staff set forth in paragraphs 4 through 22 above that it knowingly sold or offered for sale, in commerce, the garments identified in paragraph 4, 8, 12, and 18 above, in violation of section 3 of the FFA, 15 U.S.C. 1192. When these allegations became known to The Limited it promptly removed the garments from its inventory, even in instances where the flammability test results were acceptable or inconclusive.

**IV. Agreement of the Parties**

24. The Commission has jurisdiction over this matter under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*, the Flammable Fabrics Act (FFA), 15 U.S.C. 1191 *et seq.*, and the Federal Trade Commission Act (FTCA), 15 U.S.C. 41 *et seq.*

25. This Agreement is entered into for settlement purposes only and does not constitute an admission by Respondent or a determination by the Commission that Respondent knowingly violated the FFA or the Clothing Standard. This Agreement becomes effective only upon its final acceptance by the Commission and service of the incorporated Order upon Respondent.

26. The parties agree that this Agreement resolves the allegations of the staff enumerated in Section II above, and the Commission will not initiate any other criminal, civil, or administrative action against Respondent or Respondent's officers or directors for those alleged violations, based upon information currently known to the staff.

27. Upon final acceptance of this Agreement by the Commission and issuance of the Order, Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondent failed to comply with the FFA as alleged, (4) to a statement of findings of fact and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

28. The Commission may disclose the terms of this Agreement and Order to the public consistent with Section 6(b) of the CPSA, 15 U.S.C. 2055(b).

29. Upon provisional acceptance of this Agreement and Order by the Commission, this Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1605.13(d). If the Commission does not receive any written request not to accept this Agreement and Order within 15 days, this Agreement and Order shall be deemed finally accepted on the 20th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1605.13(e).

30. Upon final acceptance by the Commission of this Agreement and Order, the Commission shall issue the attached Order, incorporated herein by reference. This Agreement becomes effective after service of the incorporated Order upon Respondent.

31. A violation of the attached Order shall subject Respondent to appropriate legal action.

32. This Agreement may be used in interpreting the incorporated Order, Agreements, understanding, representations, or interpretations made outside of this Agreement may not be used to vary or contradict its terms.

33. The provisions of this Agreement and Order shall apply to Respondent, it successors an assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device or instrumentality.

Dated: January 15, 1998.

Philip S. Renaud, II,

*Vice President of Insurance, The Limited, Inc. Three Limited Parkway, Columbus, OH 43230.*

Dated: January 20, 1998.

Howard N. Tarnoff,

*Trial Attorney, Division of Administrative Litigation, Office of Compliance.*

Eric L. Stone,

*Director, Division of Administrative Litigation, Office of Compliance.*

Alan H. Schoem,

*Assistant Executive Director, Office of Compliance U.S. Consumer Product Safety Commission, Washington, DC 20207.*

*In the Matter of The Limited, Inc. a Corporation; Order*

Upon consideration of the Settlement Agreement entered into between Respondent The Limited, Inc., and its subsidiary and/or affiliated companies, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Respondent; and it appearing that the Settlement Agreement and Order is in the public interest.

**I**

*It is ordered* That the Settlement Agreement and Order be and hereby is accepted.

**II**

*It is further ordered* That Respondent pay to the United States Treasury a civil penalty of two hundred thousand dollars ($200,000) within twenty (20) days after service upon Respondent of the Final Order.

Provisionally accepted and Provisional Order issued on the 11th day of February, 1998.

By Order of the Commission.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 98–4087 Filed 2–18–98; 8:45 am]

**BILLING CODE 6355–01–M**

## DEPARTMENT OF DEFENSE

**[OMB Control Number 0704–0253]**

## Information Collection Requirements; Subcontracting Policies and Procedures

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through July 31, 1998, under OMB Control Number 0704–0253. DoD proposes that OMB extend its approval for use through July 31, 2001.

**DATES:** Consideration will be given to all comments received by April 20, 1998.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to: Defense Acquisition Regulations Council, Attn: Mr. R.G. Layser, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301–3062. Telefax number (703) 602–0350. E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil. Please cite OMB Control Number 0704–0253 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0253 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Rick Layser, (703) 602–0131. A copy of the information collection requirement is available electronically via the Internet at: http://www.dtic.mil/dfars/. Paper copies of the information collection requirement may be obtained from Mr. R.G. Layser, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301–3062.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Forms, And Associated OMB Control Number:* Defense Federal Acquisition Regulation Supplement (DFARS); OMB Control Number 0704–0253, Subcontracting Policies and Procedures—DFARS Part 244.

*Needs and uses:* The collection of this information is considered by the administrative contracting officer before making a decision on granting, withholding, or withdrawing

purchasing system approval at the conclusion of a contractor purchasing system review. Withdrawal of purchasing system approval would necessitate Government consent to individual subcontracts in accordance with section 44.102 of the Federal Acquisition Regulation.

*Affected Public:* Businesses or other for-profit organizations; and not-for-profit institutions.

*Annual Burden Hours:* 1,440.

*Number of Respondents:* 90.

*Responses per respondent:* 1.

*Annual Responses:* 1,440.

*Average Burden per Response:* 16 hours per response.

*Frequency:* On occasion.

*Summary of Information Collection:* The information collection includes the requirements of DFARS 244.305–70, Granting, withholding, or withdrawing approval, which requires the administrative contracting officer, at the completion of the in-plant portion of the contractor purchasing system review, to request the contractor to submit within 15 days its plan for correcting deficiencies or making improvements to its purchasing system.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

[FR Doc. 98–4152 Filed 2–18–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

**[OMB Control Number 0704–0363]**

### Information Collection Requirements; Reporting, Redistribution, and Disposal of Contractor Inventory

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currency approved by the Office of Management and Budget (OMB) for use through June 30, 1998, under OMB Control Number 0704–0363. DoD proposes that OMB extend its approval for use through June 30, 2001.

**DATES:** Consideration will be given to all comments received by April 20, 1998.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to: Defense Acquisition Regulations Council, Attn: Mr. R.G. Layser, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301–3062. Telefax number (703) 602–0350. E-mail comments submitted over the Internet should be addressed to: dfarsacq.osd.mil. Please cite OMB Control Number 0704–0363 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–-373 on the subject line.

**FOR FURTHER INFORMATION CONTACT:** Rick Layser, (703) 602–0131.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Forms, and Associated OMB Control Number:* Defense Federal Acquisition Regulation Supplement (DFARS); OMB Control Number 0704–0363. Reporting, Redistribution, and Disposal of Contractor Inventory—245.73; Sale of Surplus Contractor Inventory and Related Clause at 252.245–7XXX, Demilitarization and Trade Security Controls.

*Needs and Uses:* The collection of this information is necessary to help eliminate the flow of DoD hardware and technology to prohibited overseas destinations and persons. The information is used by inventory managers, plant clearance officers, contracting officers, law enforcement agencies, and contractors to ensure that military property is demilitarized to preclude its use for its originally intended military or lethal purpose.

*Affected Public:* Businesses or other for-profit organizations; and not-for-profit institutions.

*Annual Burden Hours:* 56,250 (Including 33,750 recordkeeping hours).

*Number of Respondents:* 1,125.

*Responses Per Respondent:* 10.

*Annual Responses:* 11,250.

*Average Burden Per Response:* 5 hours per response.

*Frequency:* On occasion.

*Summary of Information Collection:* The information collection includes the requirements of DFARS Subpart 245.73; Sale of Surplus Contractor Inventory, and the related clause proposed for inclusion in the DFARS at 252.245–7XXX, Demilitarization and Trade Security Controls (62 FR 30832, June 5, 1997). The proposed clause requires the contractor, for items that were furnished to the contractor by the Government, to enter demilitarization codes in the item description on inventory schedules that report excess Government property requiring demilitarization and/or trade security controls; and for other excess Government property, requires the contractor to assign and enter demilitarization codes in the item description on inventory schedules that report excess Government property requiring demilitarization and/or trade security controls.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

[FR Doc. 98–4153 Filed 2–18–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title, Associated Forms, and OMB Number:* Department of Defense Dependents Schools Overseas Employment Opportunities for Employment; DS Form 5010, DS Form 5011, DS Form 5012, DS Form 5012; OMB Number 0704–0370.

*Type of Request:* Reinstatement.

*Number of Respondents:* 24,000.

*Responses per Respondent:* 1.

*Annual Responses:* 24,000.

*Average Burden per Response:* 11.75 minutes.

*Annual Burden Hours:* 4,700.

*Needs and Uses:* Titles 42 U.S.C. 2000e–2 and 20 U.S.C. 902 and 903 requires the Department to ensure that both equal employment opportunity and employment and salary practices applicable to teachers and teaching positions overseas are in compliance with Federal laws. This information collection is used to obtain information on prospective applicants for educator positions within the Department of Defense Dependents Schools. The information is used to verify experience, employment history, personal and

professional traits, suitability for employment within DoDDS, ensure that DoDDS is in compliance with equal employment practices, and to determine the effectiveness of DoDDS advertising efforts.

*Affected Public:* Individuals or households.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: February 12, 1998.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 98–4085 Filed 2–18–98; 8:45 am]

**BILLING CODE 5000–04–M**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0102]**

## Proposed Collection; Comment Request Entitled Prompt Payment

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for comments regarding a revision to an existing OMB clearance (9000–0102).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submiting to the Office of Management and Budget (OMB) a request to review and approve a revision to a currently approved information collection requirement concerning Prompt Payment. The clearance currently expires on May 31, 1998.

**DATES:** Comments may be submitted on or before April 20, 1998.

**FOR FURTHER INFORMATION CONTACT:** Jerry Olson, Federal Acquisition Policy Division, GSA (202) 501–3221.

**ADDRESSES:** Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0102, Prompt Payment, in all correspondence.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

Part 32 of the Federal Acquisition Regulation (FAR) and the clause at FAR 52.232–5, Payments Under Fixed-Price Construction Contracts, require that contractors under fixed-price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract and timely payments will be made from the proceeds of the payment covered by the certification, and that this payment request does not include any amount which the contractor intends to withhold from a subcontractor/supplier. Part 32 of the FAR and the clause at 52.232–27, Prompt Payment for Construction Contracts, further require that contractors on construction contracts:

(a) Notify subcontractors/suppliers of any amounts to be withheld and furnish a copy of the notification to the contracting officer;

(b) Pay interest to subcontractors/suppliers if payment is not made by 7 days after receipt of payment from the Government, or within 7 days after correction of previously identified deficiencies;

(c) Pay interest to the Government if amounts are withheld from subcontractors/suppliers after the Government has paid the contractor the amounts subsequently withheld, or if the Government has inadvertently paid the contractor for nonconforming performance; and

(d) Include a payment clause in each subcontract which obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days after such amounts are paid to the contractor, include an interest penalty clause which obligates the contractor to pay the subcontractor an interest penalty if payments are not made in a timely manner, and include a clause requiring each subcontractor to include these clauses in each of its subcontractors and to require each of its subcontractors to include similar clauses in their subcontracts.

These requirements are imposed by Pub. L. 100–496, the Prompt Payment Act Amendments of 1988.

Contracting officers will be notified if the contractor withholds amounts from subcontractors/suppliers after the Government has already paid the contractor the amounts withheld. The contracting officer must then charge the contractor interest on the amounts withheld from subcontractors/suppliers. Federal agencies could not comply with the requirements of the law if this information were not collected.

### B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.11* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *38,194*; responses per respondent, *11*; total annual responses, *420,136*; preparation hours per response, *.11*; and total response burden hours, *46,215*.

### C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *34,722*; hours per recordkeeper, *18*; and total recordkeeping burden hours, *624,996*.

*Obtaining Copies of Proposals*: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0102, Prompt Payment, in all correspondence.

Dated: February 13, 1998.

**Sharon A. Kiser,**

*FAR Secretariat.*

[FR Doc. 98–4151 Filed 2–18–98; 8:45 am]

**BILLING CODE 6820–34–P**

## DEPARTMENT OF DEFENSE

## Office of the Secretary

## Meeting of the Presidential Advisory Committee on High Performance Computing and Communications, Information Technology, and the Next Generation Internet

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and summary agenda for the next meeting of the Presidential Advisory Committee on High Performance Computing and Communications, Information Technology, and the Next Generation Internet. The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act, (Pub. L. 92–463).

**DATES:** March 11, 1998.

**ADDRESSES:** NSF Board Room (Room 1235), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

**PROPOSED SCHEDULE AND AGENDA:** The Presidential Advisory Committee will meet in open session from approximately 8:30 a.m. to noon and 1:00 p.m. to 5:00 p.m. on March 11, 1998. This meeting will include briefings from the Highend Subcommittee and the Broadbased Subcommittee, and update on the activities of the Next Generation Internet initiative, and an interim status report on the past and future activities of this Committee. Time will also be allocated during the meeting for public comments by individuals and organizations.

**FOR FURTHER INFORMATION CONTACT:** The National Coordination Office for Computing, Information, and Communications provides information about this Committee on its web site at: http://www.ccic.gov; it can also be reached at (703) 306–4722. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: February 12, 1998.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 98–4086 Filed 2–18–98; 8:45 am]

**BILLING CODE 5000–04–M**

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**ACTION:** Submission for OMB Review; Comment Request.

**SUMMARY:** The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 23, 1998.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 13, 1998.

**Gloria Parker,**

*Deputy Chief Information Officer, Office of the Chief Information Officer.*

### Office of the Under Secretary

*Type of Review:* New.

*Title:* Local Implementation of Federal Programs.

*Frequency:* One time.

*Affected Public:* State, local or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 3,236.

Burden Hours: 3,329.

*Abstract:* The Department of Education is charged with evaluating Title I of ESEA and other elementary and secondary education legislation enacted by the 103rd Congress. This study will collect information on the operations and effects at the district level of legislative provisions and federal assistance, in the context of state education reform efforts. Findings will be used in reporting to Congress and improving information dissemination. Respondents are local superintendents, directors of federal programs, directors of research and assessment, and school principals.

[FR Doc. 98–4205 Filed 2–18–98; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### National Assessment Governing Board; Meeting

**AGENCY:** National Assessment Governing Board; Education.

**ACTION:** Notice of partially closed meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

**DATES:** March 5–7, 1998.

**TIME:** March 5, Achievement Levels Committee, 2:00–4:00 p.m. (open); Subject Area Committee #1, 2:00–3:00 p.m. (open), 3:00–4:00 p.m. (closed); Executive Committee, 5:00–6:00 p.m. (open), 6:00–7:00 p.m. (closed). March 6, Full Board, 8:30–10:00 a.m. (open); Design and Methodology Committee 9:30–11:30 a.m. (open); Reporting and Dissemination Committee, 9:30–11:30 a.m. (open); Joint Meeting Subject Area Committee #1 and #2, 9:30–11:30 a.m. (open); Full Board 11:30–4:45 p.m. (open). March 7, Nominations Committee, 7:30–9:00 a.m. (open); Full Board 9:00 a.m.–adjournment, approximately 12:00 noon, (open).

**LOCATION:** Four Seasons Olympic Hotel, 411 University Street, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Wilmer, Operations Officer, National Assessment Governing Board,

Suite 825, 800 North Capitol Street, N.W., Washington, D.C. 20002–4233, Telephone: (202) 357–6938.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under Public Law 105–78, the National Assessment Governing Board is also granted exclusive authority over developing Voluntary National Tests pursuant to contract number RJ97153001 and is required to review and modify the contract to the extent the Board determines necessary, if the contract cannot be modified to the extent the Board determines necessary, the contract shall be terminated and a new contract negotiated.

On March 5, there will be an open meeting of the Achievement Levels Committee from 2:00–4:00 p.m. The Committee will be reviewing the proposed final achievement level descriptions for the 1998 civics and writing assessments. On the Voluntary National Tests, the Committee will examine some of the policy issues related to achievement levels in math and reading.

Also on March 5, there will be two partially closed meetings: Subject Area Committee #1, and the Executive Committee. The Subject Area Committee will meet in open session, 2:00–3:00 p.m., to finalize plans for the report to the Full Board on the Voluntary National Tests specifications in 4th grade reading. In closed session, 3:00–4:00 p.m., the Committee will review the RFP for a NAEP Foreign Language Assessment. This portion of the meeting must be conducted in closed session because premature disclosure of the information presented for review might significantly frustrate a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

During the open portion of the Executive Committee, 5:00–6:00 p.m., there will be presentations on the following activities: Voluntary National Tests; Reauthorization; Secondary Analysis Grants; and NAEP Redesign. The Committee will then meet in closed session from 6:00–7:00 p.m., to continue discussion of cost estimates for NAEP and future contract initiatives. This portion of the meeting must be closed because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption (9)(B) of section 552b(c) of Title 5 U.S.C.

In addition, during the closed portion the Committee will be taking action on personnel appointments for the positions for Assistant Director of Test Development, and Assistant Director for Reporting and Dissemination. The Committee will discuss the qualifications of the individuals recommended for appointment. These discussions will relate solely to the internal personnel rules and practices of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b (c) of Title 5 U.S.C.

On March 6, the full Board will convene in open session at 8:30 a.m. The agenda for this session of the meeting includes remarks from the Washington State Superintendent of Schools, and an update on NAEP activities.

The Design and Methodology Committee, and the Reporting and Dissemination Committee will each meet in open session from 9:30–11:30 a.m. The Design and Methodology Committee will be reviewing the grant applications for the NAEP cycles 2000–2003, and a proposal for a NAEP 12th grade longitudinal study. On the Voluntary National Tests, the Committee will be focusing on the contractors linking proposal, and the pilot and field test design. The Reporting and Dissemination Committee will review plans for the schedule and release of upcoming NAEP reports, and the contractors proposed plan for reporting and utilizing the results of the Voluntary National Tests.

Subject Area Committees #1 and #2 will meet jointly from 9:30–11:30 a.m. The Committees will hear an update of the plans for the next NAEP assessments, as well as, schedule information on the current NAEP assessments in 1998.

The full Board will reconvene beginning at 11:30 a.m.–12:00 noon to hear a briefing on the features of the redesign that have been detailed in the NCES grant applications for the next two cooperative agreements for conducting NAEP. These cooperative agreements will cover two operational aspects of NAEP: (1) Data collection, 2000–2003; and (2) development, scoring, analysis, and reporting. The Board will also consider matters related to the Voluntary National Tests which include hearing an overview of activities under the AIR contract through September, and a report, recommendations, and discussions on the math and reading specifications.

On March 7, the Nominations Committee will meet in open session from 7:30–9:00 a.m. The Committee will discuss modification of the calendar for the 1998 nominations process; prepare for the review of resumes; and set a date for finalizing committee recommendations.

Also on March 7, the full Board will meet from 9:00 a.m.–12:00 noon. The Board will hear comments regarding the Voluntary National Tests from the Executive Director of the Council of Great City Schools, and the Superintendent of the Seattle School District. Also, the Board will receive the reports of its committees.

Summaries of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of Section 5 U.S.C. 552b(c), will be available to the public within 14 days of the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Dated: February 13, 1998.

**Roy Truby,**

*Executive Director, National Assessment Governing Board.*

[FR Doc. 98–4154 Filed 2–18–98; 8:45 am]

**BILLING CODE 4000–01–M**

## DEPARTMENT OF EDUCATION

### National Educational Research Policy and Priorities Board; Meeting

**AGENCY:** National Educational Research Policy and Priorities Board; Education.

**ACTION:** Notice of meeting (teleconference).

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting (teleconference) of the Executive Committee of the National Educational Research Policy and

Priorities Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the public of their opportunity to attend the meeting. The public is being given less than 15 days' notice because of the need to accommodate the schedules of the members.

**DATES:** February 26, 1998.

**TIME:** 10 a.m. to 11 a.m., EST.

**LOCATION:** Room 100, 80 F St., N.W., Washington, D.C. 20208–7564.

**FOR FURTHER INFORMATION CONTACT:**

Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, 80 F St., N.W., Washington, D.C. 20208–7564. Telephone: (202) 219–2065; fax: (202) 219–1528; e-mail: Thelma__Leenhouts@ed. gov. The main telephone number for the Board is (202) 208–0692.

**SUPPLEMENTARY INFORMATION:** The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The Executive Committee teleconference will consist of a review of the agenda for the next quarterly meeting of the Board on March 19 and 20, 1998, and related matters. A final agenda will be available from the Board's office on February 19. Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, 80 F St., N.W., Washington, D.C. 20208–7564.

Dated: February 12, 1998.

**Eve M. Bither,**

*Executive Director.*

[FR Doc. 98–4090 Filed 2–18–98; 8:45 am]

**BILLING CODE 4000–01–M**

## Federal Energy Regulatory Commission

**[Docket No. ER98–1642–000, et al.]**

## Puget Sound Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

February 10, 1998.

Take notice that the following filings have been made with the Commission:

### 1. Puget Sound Energy, Inc.

[Docket No. ER98–1642–000]

Take notice that on January 30, 1998, Puget Sound Energy, Inc. (PSE), tendered for filing the Agreement Regarding Canadian Entitlement between PSE and Public Utility District No. 1 of Chelan County (Chelan). A copy of the filing was served upon Chelan.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 2. The Cleveland Electric Illuminating Company

[Docket No. ER98–1644–000]

Take notice that on January 30, 1998, The Cleveland Electric Illuminating Company (CEI), submitted an Electric Power Service Agreement establishing Wellsboro Electric Company (Wellsboro), as a customer under the terms of CEI's market-based power sales tariff, FERC Electric Tariff Original Volume No. 4, and a Transaction Agreement governing a specific sale agreed upon by CEI and Wellsboro.

CEI requests an effective date of January 1, 1998, for the Electric Power Service Agreement and Transaction Agreement. To the extent necessary to permit this requested effective date, CEI requests waiver of the Commission's notice requirements. CEI states that copies of the filing were served upon Wellsboro and the public utilities commissions of Ohio and Pennsylvania.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 3. PJM Interconnection, L.L.C.

[Docket No. ER98–1645–000]

Take notice that on January 30, 1998, PJM Interconnection, L.L.C. (PJM), tendered for filing 3 executed service agreements for point-to-point service under the PJM Open Access Tariff.

Copies of this filing were served upon the parties to the service agreements.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 4. Northern Indiana Public Service Company

[Docket No. ER98–1646–000]

Take notice that on January 30, 1998, Northern Indiana Public Services Company (Northern), filed a Network Integration Transmission Service Agreement pursuant to its Open Access Transmission Tariff and a Service Agreement pursuant to its Power Sales Tariff with the Town of Brookston, Indiana. Northern Indiana has requested an effective date of February 1, 1998.

Copies of this filing have been sent to the Town of Brookston, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 5. Northern Indiana Public Service Company

[Docket No. ER98–1647–000]

Take notice that on January 30, 1998, Northern Indiana Public Services Company (Northern), filed a Network Integration Transmission Service Agreement pursuant to its Open Access Transmission Tariff and a Service Agreement pursuant to its Power Sales Tariff with the Town of Walkerton, Indiana. Northern Indiana has requested an effective date of February 1, 1998.

Copies of this filing have been sent to the Town of Walkerton, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 6. Puget Sound Energy, Inc.

[Docket No. ER98–1648–000]

Take notice that on January 30, 1998, Puget Sound Energy, Inc. (PSE), tendered for filing the Agreement Regarding Canadian Entitlement between PSE and Public Utility District No. 1 of Chelan County (Chelan). A copy of the filing was served upon Chelan.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 7. El Paso Electric Company

[Docket No. ER98–1650–000]

Take notice that on January 30, 1998, El Paso Electric Company (El Paso), tendered for filing a Firm Point-to-Point Transmission Service Agreement under its Open Access Transmission Tariff for delivery of up to 200 MW of electricity to Commission Federal de Electricidad during 1998. EPE has asked for a waiver

of the FERC's notice requirements in order to make the Service Agreement effective as of January 1, 1998.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**8. Deseret Generation & Transmission Co-operative**

[Docket No. ER98–1651–000]

Take notice that on January 30, 1998, Deseret Generation & Transmission Co-operative, tendered for filing an executed umbrella non-firm point-to-point service agreement with Idaho Power company under its open access transmission tariff. Deseret requests a waiver of the Commission's notice requirements for an effective date of January 8, 1998. Deseret's open access transmission tariff is currently on file with the Commission in Docket No. OA97–487–000. Idaho Power Company has been provided a copy of this filing.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**9. Northern Indiana Public Service Company**

[Docket No. ER98–1652–000]

Take notice that on January 30, 1998, Northern Indiana Public Services Company (Northern), filed a Network Integration Transmission Service Agreement pursuant to its Open Access Transmission Tariff and a Service Agreement pursuant to its Power Sales Tariff with the Town of Kingsford Heights, Indiana. Northern Indiana has requested an effective date of February 1, 1998.

Copies of this filing have been sent to the Town of Kingsford Heights, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**10. Northern Indiana Public Service Company**

[Docket No. ER98–1653–000]

Take notice that on January 30, 1998, Northern Indiana Public Services Company (Northern), filed a Network Integration Transmission Service Agreement pursuant to its Open Access Transmission Tariff and a Service Agreement pursuant to its Power Sales Tariff with the Town of Bremen, Indiana. Northern Indiana has requested an effective date of February 1, 1998.

Copies of this filing have been sent to the Town of Bremen, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**11. Northern Indiana Public Service Company**

[Docket No. ER98–1654–000]

Take notice that on January 30, 1998, Northern Indiana Public Services Company (Northern), filed a Network Integration Transmission Service Agreement pursuant to its Open Access Transmission Tariff and a Service Agreement pursuant to its Power Sales Tariff with the Town of Winamac, Indiana. Northern Indiana has requested an effective date of February 1, 1998.

Copies of this filing have been sent to the Town of Winamac, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**12. Northern Indiana Public Service Company**

[Docket No. ER98–1655–000]

Take notice that on January 30, 1998, Northern Indiana Public Services Company (Northern), filed a Network Integration Transmission Service Agreement pursuant to its Open Access Transmission Tariff and a Service Agreement pursuant to its Power Sales Tariff with the Town of Chalmers, Indiana. Northern Indiana has requested an effective date of February 1, 1998.

Copies of this filing have been sent to the Town of Chalmers, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**13. Northern States Power Company (Minnesota Company)**

[Docket No. ER98–1656–000]

Take notice that on January 30, 1998, Northern States Power Company (Minnesota) (NSP) tendered for filing the Firm Point-to-Point Transmission Service Agreement between NSP and NSP Wholesale (POD: City of Kasson, MN).

NSP requests that the Commission accept the agreement effective January 1, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**14. Northern States Power Company (Minnesota Company)**

[Docket No. ER98–1657–000]

Take notice that on January 30, 1998, Northern States Power Company (Minnesota) (NSP) tendered for filing the Firm Point-to-Point Transmission Service Agreement between NSP and NSP Wholesale (POD: City of Kasota, MN).

NSP requests that the Commission accept the agreement effective January 1, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**15. Northern States Power Company (Minnesota Company)**

[Docket No. ER98–1658–000]

Take notice that on January 30, 1998, Northern States Power Company (Minnesota) (NSP) tendered for filing the Firm Point-to-Point Transmission Service Agreement between NSP and NSP Wholesale (POD: City of Madelia, MN).

NSP requests that the Commission accept the agreement effective January 1, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**16. Northern States Power Company (Minnesota Company)**

[Docket No. ER98–1659–000]

Take notice that on January 30, 1998, Northern States Power Company (Minnesota) (NSP) tendered for filing the Firm Point-to-Point Transmission Service Agreement between NSP and NSP Wholesale (POD: City of Buffalo, MN).

NSP requests that the Commission accept the agreement effective January 1, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**17. Northern States Power Company (Minnesota Company)**

[Docket No. ER98–1660–000]

Take notice that on January 30, 1998, Northern States Power Company (Minnesota) (NSP) tendered for filing the Firm Point-to-Point Transmission Service Agreement between NSP and

NSP Wholesale (POD: City of Sioux Falls, SD).

NSP requests that the Commission accept the agreement effective January 1, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**18. Southwestern Public Service Company**

[Docket No. ER98–1661–000]

Take notice that on January 30, 1998, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under Southwestern's market-based sales tariff with Aquila power Corporation (Aquila). This umbrella service agreement provides for Southwestern's sale and Aquila's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**19. The Washington Water Power Company**

[Docket No. ER98–1662–000]

Take notice that on January 30, 1998, The Washington Water Power Company (WWP) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an executed Interconnection and Operating Agreement between WWP and Kootenai Electric Cooperative. WWP requests an effective date of January 1, 1998.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**20. PP&L, Inc.**

[Docket No. ER98–1663–000]

Take notice that on January 30, 1998, PP&L, Inc. filed a summary of activity conducted under its market-based rates tariff, FERC Electric Tariff, Original Volume No. 5, during the quarter ending December 31, 1997.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**21. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company**

[Docket No. ER98–1664–000]

Take notice that on January 30, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 38 to add three (3) new customers to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service on an hourly, daily, weekly, monthly or yearly basis. Allegheny power requests a waiver of notice requirements to make service available as of January 29, 1998, to CMS Marketing, Services and Trading Company, Columbia Power Marketing Corporation, and Tenaska Power Services Company.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**22. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Co.**

[Docket No. ER98–1665–000]

Take notice that on January 30, 1998, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the ''CSW Operating Companies'') submitted for filing service agreements under which the CSW Operating Companies will provide transmission service to Tex-La Electric Cooperative of Texas, Inc. (Tex-La).

The CSW Operating Companies state that a copy of the filing has been served on Tex-La.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**23. Union Electric Company**

[Docket No. ER98–1666–000]

Take notice that on January 30, 1998, Union Electric Company tendered for filing its quarterly report detailing sale transactions undertaken for the quarter of October 1, 1997–December 31, 1997.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**24. Northeast Utilities Service Company**

[Docket No. ER98–1667–000]

Take notice that on January 30, 1998, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire (collectively, the NU System Companies), tendered for filing NUSCO's activity under the NU System Companies' Tariff No. 7 (market-based rates) for the quarter ending December 31, 1997.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**25. Atlantic City Electric Company**

[Docket No. ER98–1668–000]

Take notice that on January 30, 1998, Atlantic City Electric Company (AE) tendered for filing its 4th Quarter 1997 Summary Report.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**26. Duke Power, a division of Duke Energy Corporation**

[Docket No. ER98–1669–000]

Take notice that on January 30, 1998, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing Schedule MR quarterly transaction summaries for service under Duke's FERC Electric tariff, Original Volume No. 3 for the quarter ended December 31, 1997.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**27. Texas-New Mexico Power Company**

[Docket No. ER98–1687–000]

Take notice that on January 30, 1998, Texas-New Mexico Power Company (TNMP) tendered for filing a service agreement and an operating agreement pursuant to which TNMP will provide a network integration transmission service to Southwestern Public Service Company pursuant to TNMP's FERC Open Access Transmission Tariff.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**28. Texas-New Mexico Power Company**

[Docket No. ER98–1688–000]

Take notice that on January 30, 1998, Texas-New Mexico Power Company (TNMP) tendered for filing First Revised Sheet No. 138, Replacing Original Sheet No. 138, of TNMP's FERC Open Access Transmission Tariff. The revised sheet updates the list of Network Integration Transmission Service customers of TNMP.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**29. Louisville Gas and Electric Company**

[Docket No. ER98–1689–000]

Take notice that on January 30, 1998, Louisville Gas and Electric Company (LG&E) tendered for filing an executed Purchase and Sales Agreement between LG&E and Sonat Power Marketing L.P. under LG&E's Rate Schedule GSS.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**30. Allegheny Power Service Corp. on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power Company)**

[Docket No. ER98–1690–000]

Take notice that on January 30, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 27 to add Columbia Power Marketing Corporation, e prime, inc., and Tenaska Power Services Co., to Allegheny Power's Open Access Transmission Service Tariff which has been submitted for filing in Docket No. OA96–18–000. The proposed effective date under the Service Agreements is January 29, 1998.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**31. Kentucky Utilities Company**

[Docket No. ER98–1691–000]

Take notice that on January 30, 1998, Kentucky Utilities Company (KU) tendered for filing service agreements between KU and Columbia Power Marketing Corporation, Tenaska Power Services Co., and Avista Energy, Inc., for service under Kentucky Utilities Company's (KU), Transmission Services Tariff and Columbia Power Marketing Corporation, Tenaska Power Services Co., Carolina Power & Light Company, and NESI Power Marketing Inc., for service under KU's Power Services (PS), Tariff. KU also tendered for filing a termination of its PS and TS service agreements with Delhi Energy Services, Inc.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**32. Ameren Services Company**

[Docket No. ER98–1692–000]

Take notice that on February 2, 1998, Ameren Services Company (Ameren Services) tendered for filing a Network Operating Agreement and a Service Agreement for Network Integration Transmission Service between Ameren Services and Edgar Electric Cooperative Association (EEC). Ameren Services asserts that the purpose of the Agreements is to permit Ameren Services to provide transmission service to EEC pursuant to Ameren's Open Access Transmission Tariff.

*Comment date:* February 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

**33. Ameren Services Company**

[Docket No. ER98–1693–000]

Take notice that on February 2, 1998, Ameren Services Company (AS) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between AS and Electric Clearinghouse, Inc. (ECI). AS asserts that the purpose of the Agreement is to permit AS to provide transmission service to ECI pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. EC96–7–000, et al.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**34. Colt Electric Power Corporation**

[Docket No. ER98–1694–000]

Take notice that on February 3, 1998, Colt Electric Power Corporation tendered for filing a Notice of Cancellation of FERC Electric Rate Schedule No. 1.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**35. Ameren Services Company**

[Docket No. ER98–1695–000]

Take notice that on February 2, 1998, Ameren Services Company (Ameren Services) tendered for filing Network Operating Agreements and Service Agreements for Network Integration Transmission Service between Ameren Services, the City of Hannibal, Missouri and the City of Kirkwood, Missouri (the Cities). Ameren Services asserts that the purpose of the Agreements is to permit Ameren Services to provide transmission service to the Cities pursuant to Ameren's Open Access Transmission Tariff.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**36. Union Electric Company**

[Docket No. ER98–1696–000]

Take notice that on February 2, 1998, Union Electric Company (UE) tendered for filing a Service Agreement for Market Based Rate Power Sales between UE and the City of Hannibal, Missouri and the City of Kirkwood, Missouri (the Cities). UE asserts that the purpose of the Agreement is to permit UE to make sales of capacity and energy at market based rates to the Cities pursuant to UE's Market Based Rate Power Sales Tariff filed in Docket No. ER97–3664–000.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**37. Long Island Lighting Company**

[Docket No. ER98–1697–000]

Take notice that on February 2, 1998, Long Island Lighting Company (LILCO) filed a Service Agreement for Firm Point-to-Point Transmission Service between LILCO and New York Power Authority (Transmission Customer).

The Service Agreement specifies that the Transmission Customer has agreed to the rates, terms and conditions of LILCO's open access transmission tariff filed on July 9, 1996, in Docket No. OA96–38–000.

LILCO requests waiver of the Commission's sixty (60) day notice requirements and an effective date of February 1, 1998, for the Service Agreement. LILCO has served copies of the filing on the New York State Public Service Commission and on the Transmission Customer.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

**38. PacifiCorp**

[Docket No. ER98–1698–000]

Take notice that PacifiCorp on February 2, 1998, tendered for filing in accordance with the Commission's June 26, 1997 Order under FERC Docket No. ER97–2801–000, a Report showing PacifiCorp's transactions under PacifiCorp's FERC Electric Tariff, Original Volume No. 12 for the quarter ending on December 31, 1997.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 39. Florida Power & Light Company

[Docket No. ER98–1699–000]

On February 2, 1998 Florida Power & Light Company (FPL) filed Service Agreements with the City of Gainesville, Florida, Columbia Power Marketing Corporation and the City of Tallahassee, Florida for service pursuant to Tariff No. 1 for Sales of Power and Energy by Florida Power & Light. In addition, FPL filed a Service Agreement with the City of Tallahassee, Florida for service pursuant to FPL's Market Based Rates Tariff. FPL requests that the Service Agreements be made effective on January 15, 1998.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 40. Washington Water Power Company

[Docket No. ER98–1700–000]

Take notice that on February 2, 1998, Washington Water Power Company tendered for filing Agreements regarding Canadian Entitlement between Washington Water Power and Public Utility District No. 1 of Chelan County and Public Utility District No. 2 of Grant County.

A copy of this filing was served upon Chelan and Grant.

*Comment date:* February 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

### Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–4167 Filed 2–18–98; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5969–1]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; Underground Injection Control (UIC) Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Underground Injection Control Program, EPA ICR No. 0370.13, OMB No 2040–0042 which expires 6/30/98. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection as described below.

**DATES:** Comments must be submitted on or before April 20, 1998.

**ADDRESSES:** Information requests or comments regarding this ICR should be directed to Denny Cruz, Office of Ground Water and Drinking Water, Mail Code 4606, 401 M Street, SW, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Denny Cruz, Office of Ground Water and Drinking Water at 202–260–7776, or through E-mail: Cruz.Denny@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

*Affected entities:* Entities potentially affected by this action are owners and operators of underground injection wells and their State Agencies including Puerto Rico, the U.S. Trust Territories, Indian Tribes, and Alaska Natives and in some instances, U.S. EPA Regional Administrators and staff.

*Title:* Information Collection Request for the Underground Injection Control Program (OMB Control No. 2040–0042; EPA ICR No. 0370.13.), expiring June 30, 1998.

*Abstract:* The Underground Injection Control (UIC) Program under the Safe Drinking Water Act established a Federal and State regulatory system to protect underground sources of drinking water from contamination by injected fluids. Owners and operators of underground injection wells must obtain permits, conduct environmental monitoring, maintain records, and report results to EPA or the State primacy agency. States must report to EPA on permittee compliance and related information. The information is reported using standardized forms and the regulations are codified at 40 CFR parts 144 through 148. The data are used to ensure the safety of underground sources of drinking water. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. In the ICR for 1995–1997, the total burden associated with this ICR was estimated to be 361,741 hours per year and the total cost was estimated to be $ 14 million per year. We expect that the burden for the continuing ICR for 1998–2000 will exceed the burden reported in the three previous years because of significant changes to the methodology used to calculate operator burden. Some changes reflect new requirements for burden estimation resulting from the

Paper Work Reduction Act of 1995. Others represent an update to the methodologies used to estimate burden in the ICR. EPA intends to examine how the UIC program could assist in reducing the burden on the States for reporting requirements and will be working with selected State officials as we work on this renewal. Any recommendations from the underground injection control community and the general public on this issue will be given consideration by the Agency.

**Elizabeth Fellows,**

*Acting Director, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency.*

[FR Doc. 98–4184 Filed 2–18–98; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5969–2]**

## Underground Injection Control Program Hazardous Waste Land Disposal Restrictions; Petition for Reissuance of an Exemption—Class I Hazardous Waste Injection Wells, E.I. du Pont de Nemours & Co., Inc. (DuPont)

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of final decision on the exemption reissuance.

**SUMMARY:** Notice is hereby given that a petition for the reissuance of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to DuPont, for the Class I injection wells located at the Victoria, Texas facility. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by DuPont, of the specific restricted hazardous waste identified in the petition, into the Class I hazardous waste injection wells at the Victoria, Texas facility until December 31, 2000, unless EPA moves to terminate the exemption under provisions of 40 CFR 148.24. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued on December 1, 1997. The public comment period closed on January 15, 1998. All comments have been addressed and have been considered in the final decision. This decision constitutes final Agency action and there is no Administrative appeal.

**DATES:** This action is effective as of February 11, 1998.

**ADDRESSES:** Copies of the exemption reissuance and all pertinent information relating thereto (including EPA's response to public comments on the exemption reissuance proposal) are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

**FOR FURTHER INFORMATION CONTACT:** Philip Dellinger, Chief, Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

**William B. Hathaway,**

*Director, Water Quality Protection Division (6WQ).*

[FR Doc. 98–4185 Filed 2–18–98; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPTS–00234; FRL–5771–4]**

## National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on March 10–12, 1998, in Washington, DC. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: acrolein, bromine, chloromethyl methyl ether, epichlorohydrin, methyl trichlorosilane, nickel carbonyl, nitric oxide, trimethyl chlorosilane, and literature review on jet fuel (JP–4, 5, 7 and 8).

**DATES:** A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5 p.m. on Tuesday, March 10; from 8:30 a.m. to 5 p.m. on Wednesday, March 11; and from 8:30 a.m. to 1 p.m. on Thursday, March 12, 1998.

**ADDRESSES:** The meeting will be held in the Old Post Office, Room M09, 1100 Pennsylvania Ave., NW., Washington, DC (Federal Triangle Metro Stop).

**FOR FURTHER INFORMATION CONTACT:** Paul S. Tobin, Designated Federal Officer (DFO), Office of Prevention, Pesticides and Toxic Substances (7406), 401 M St., SW., Washington, DC 20460, (202) 260–1736, e-mail: tobin.paul@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Electronic Availability

*Internet*

Electronic copies of this notice and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

*Fax-On-Demand*

Using a faxphone call (202) 401–0527 and select item 4800 for an index of items in this category.

### II. Meeting Procedures

For further information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission or presentation of information on chemicals to be discussed at the meeting, contact the DFO.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations or the submission of written statements or chemical-specific information should be directed to the DFO.

Another meeting of the NAC/AEGL Committee is expected to be held on June 15, 16, and 17, 1998 [currently planned to be held at Oak Ridge National Laboratory, 1060 Commerce Park, Oak Ridge, TN]. It is anticipated that chemicals to be addressed at the Oak Ridge, TN meeting will include, but not necessarily be limited to the following: chloroform, crotonaldehyde (E), HFC–134a, HCFC–141b, methyl isocyanate, peracetic acid, piperidine, sulfur dioxide, sulfur trioxide, and sulfuric acid. Inquiries regarding the submission of data, written statements, or chemical-specific information on these chemicals should be directed to the DFO at the earliest possible date to

allow for consideration of this information in the preparation of NAC/AEGL Committee materials.

**List of Subjects**

Environmental protection, Hazardous substances, Health.

Dated: February 11, 1998.

**William H. Sanders III,**

*Director, Office of Pollution Prevention and Toxics.*

[FR Doc. 98–4188 Filed 2–18–98; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5968–7]**

## Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the second meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held March 4–6, 1998, in Washington, D.C. The CHPAC was created to advise the Environmental Protection Agency in the development of regulations, guidance and policies to address children's environmental health.

**DATES:** Wednesday, March 4, 1998, from 12:00 p.m. to 5:00 p.m. (Work Group meetings only); Plenary session begins on Thursday, March 5, 1998, from 10:00 a.m. to 5:30 p.m. and continues on Friday, March 6, 1998, from 9:00 a.m. to 1:00 p.m.

**ADDRESSES:** Washington Plaza Hotel, 10 Thomas Circle, NW (at Massachusetts Avenue and 14th Street, NW), Washington, D.C. 20005.

**Agenda Items**

The meetings of the CHPAC are open to the public. The Regulatory Re-evaluation Work Group will meet from 12:00 p.m. to 5:00 p.m. on Wednesday, March 4, 1998 and the Outreach and Communications Work Group will meet from 2:00 p.m. to 5:00 p.m. on Wednesday, March 4, 1998. The plenary session will begin on Thursday, March 5, 1998, from 10:00 a.m. to 5:30 p.m. and continue on Friday, March 6, 1998, from 9:30 a.m. to 1:00 p.m. The plenary session will open with introductions, a review of the agenda and objectives for the meeting. Some tentative agenda items include reports from the Work Groups, discussion on the selection of five standards for review with regards to children's environmental health, and discussion about the formation of a Cost/Benefit Work Group. There will be a public comment period on Friday, March 6, 1998.

**FOR FURTHER INFORMATION CONTACT:** Persons needing further information should contact Paula R. Goode, Office of Children's Health Protection, USEPA, MC 1107, 401 M Street, SW, Washington, D.C. 20460, (202) 260–7778, goode.paula@epamail.epa.gov.

Dated: February 10, 1998.

**E. Ramona Trovato,**

*Director, Office of Children's Health Protection.*

[FR Doc. 98–4180 Filed 2–18–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5968–8]**

## Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Drinking Water Committee (DWC) of the Science Advisory Board (SAB) will hold a public meeting beginning at 9:00 a.m. Thursday, March 12, 1998 and ending not later than 3:00 p.m. Friday, March 13, 1998 (Eastern). The meeting will be held in Room 2103—Mall of the EPA Headquarters Building, 401 M Street, S.W., Washington, DC 20460.

The purpose of the meeting is for the Committee to receive a series of informational briefings on the status of a number of scientific topics of relevance to Safe Drinking Water Act (SDWA) implementation. Documents discussing some or all of these topics may be the subject of future formal reviews by the Science Advisory Board/Drinking Water Committee. Topics that the Committee will be briefed on include: (a) Complex mixtures and their implications to safe drinking water, (b) microbial/disinfection byproduct research and the Agency's plans for tracking research progress, (c) the EPA drinking water contaminant occurrence data base, and (d) the results of new drinking water epidemiology studies conducted in California.

*For Further Information:* Single copies of the background information for this review, or the meeting agenda, can be obtained by contacting Mr. Thomas O. Miller, Designated Federal Officer for the Drinking Water Committee, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460; by telephone at (202) 260–5886; by fax at (202) 260–7118 or via the INTERNET at: miller.tom@epamail.epa.gov, or by contacting Ms. Mary Winston at (202) 260–8414, by fax at (202) 260–7118, and by INTERNET at: winston.mary@epamail.epa.gov.

**Providing Oral or Written Comments at SAB Meetings**

Anyone wishing to make an oral presentation to the Committee must contact Mr. Miller, in writing (by letter, fax, or INTERNET—at the INTERNET address) no later than 12 noon (Eastern Standard Time) Friday, March 6, 1998, in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Miller no later than the time of the presentation for distribution to the Committee and the interested public.

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Written comments received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: February 13, 1998.

**Donald G. Barnes,**

*Staff Director, Science Advisory Board.*

[FR Doc. 98–4183 Filed 2–18–98; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

**[DA 98–280]**

## Commission to Hold En Banc February 19, 1998 in Connection With Report to Congress on Universal Service

February 13, 1998.

The Federal Communications Commission will hold an En Banc on Thursday, February 19, 1998, from 2:00 p.m. to 4:00 pm, in Room 856 at 1919 M. Street, N.W., Washington, D.C. The En Banc is in connection with the

Report to Congress on Universal Service required by statute.

The 1998 appropriations legislation for the Departments of Commerce, Justice, and State, Public Law 105–119, directs the Commission to undertake a review of the implementation of the provisions of the Telecommunications Act of 1996 (1996 Act) relating to universal service, and to submit a report to Congress no later than April 10, 1998.

At the En Banc, the Commission will hear from panels of experts addressing issues regarding various definitions in the 1996 Act, as well as the payment and receipt of Universal Service contributions by information service providers and telecommunications carriers.

The En Banc is open to the public, and seating will be available on a first come, first served basis. A transcript of the En Banc will be available 10 days after the event on the FCC's Internet site. The URL address for the FCC's Internet Home Page is <http://www.fcc.gov>.

The En Banc will also be carried live on the Internet. Internet users may listen to the real-time audio feed of the En Banc by accessing the FCC Internet Audio Broadcast Home Page. Step-by-step instructions on how to listen to the audio broadcast, as well as information regarding the equipment and software needed, are available on the FCC Internet Audio Broadcast Home Page. The URL address for this home page is http://www.fcc.gov/realaudio/.

News Media Contact: Rochelle Cohen (202) 418–0253.

Report Working Group Contacts: Melissa Waksman (202) 418–1580, Marcelino Ford-Livene (202) 418–2030.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98–4328 Filed 2–17–98; 12:21 pm]

**BILLING CODE 6712–01–M**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**AGENCY:** Federal Election Commission.

**DATE AND TIME:** Tuesday, February 24, 1998, at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**DATE AND TIME:** Wednesday, February 25, 1998, at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C. (Ninth Floor).

**STATUS:** This hearing will be open to the public.

**MATTER BEFORE THE COMMISSION:** Pete Wilson for President Committee, Inc.

**DATE AND TIME:** Thursday, February 26, 1998, at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C. (Ninth Floor).

**STATUS:** This meeting will be open to the public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes.

Advisory Opinion 1997–24: The Corporation for the Advancement of Psychiatry and CAP Political Action Committee, by the CAPPAC treasurer, Gerald H. Flamm, M.D.

Advisory Opinion 1998–01: Congressman Earl F. Hilliard, Hilliard for Congress Campaign, by counsel Ralph L. Lotkin.

Audit: San Diego Host Committee/Sail to Victory '96 (continued from meeting of February 12, 1998).

Audit: Committee on Arrangements for the 1996 Republican National Convention (continued from meeting of February 12, 1998).

Legislative Recommendations—1998.

Administrative Matters.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Signed:

**Mary W. Dove,**

*Administrative Assistant.*

[FR Doc. 98–4379 Filed 2–17–98; 3:28 pm]

**BILLING CODE 6715–01–M**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1197–DR]**

### Tennessee; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Tennessee (FEMA–1197–DR), dated January 13, 1998, and related determinations.

**EFFECTIVE DATE:** February 5, 1998.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster which was closed effective January 21, 1998, is now reopened to allow for additional damage resulting from continuing severe storms. The incident period for this declared disaster is January 6, 1998, and continuing.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 98–4175 Filed 2–18–98; 8:45 am]

**BILLING CODE 6718–02–P**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–1197–DR]**

### Tennessee; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1197–DR), dated January 13, 1998, and related determinations.

**EFFECTIVE DATE:** February 5, 1998.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of Tennessee, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1998:

Cocke, Greene, Hawkins, Sevier, Sullivan, Unicoi, and Washington Counties for Public Assistance.

Unicoi County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 98–4176 Filed 2–18–98; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Open Meeting, Technical Mapping Advisory Council

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

*Name:* Technical Mapping Advisory Council.

*Dates of Meeting:* March 2 and 3, 1998.

*Place:* The meeting will be held at the Baltimore Marriott Inner Harbor Hotel, Pratt and Eutaw Streets, Baltimore, Maryland.

*Times:* 8:30 a.m. to 6:00 p.m. on Monday and 8:00 a.m. to 3:00 p.m. Tuesday.

*Proposed Agenda:* The proposed agenda is as follows:

1. Call to order.
2. Announcements.
3. Action on minutes of previous meeting.
4. Clarification and discussion of the purpose of the meeting.
5. Revisions/additions to meeting agenda.
6. Committee reports.
7. Old business.
8. New business.
9. Adjournment.

*Status:* This meeting is open to the public.

**FOR FURTHER INFORMATION CONTACT:** Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., Room 421, Washington, DC 20472; telephone (202) 646–2756 or by fax as noted above.

Dated: February 11, 1998.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

[FR Doc. 98–4174 Filed 2–18–98; 8:45 am]

BILLING CODE 6718–04–M

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 4, 1998.

**A. Federal Reserve Bank of Cleveland** (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

*1. William Harvey May*, Nelsonville, Ohio; to retain voting shares of First National Bancshares of Nelsonville, Inc., Nelsonville, Ohio, and thereby indirectly retain voting shares of First National Bank of Nelsonville, Nelsonville, Ohio.

Board of Governors of the Federal Reserve System, February 12, 1998.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 98–4106 Filed 2–18–98; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 5, 1998.

**A. Federal Reserve Bank of Atlanta** (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

*1. James A. Taylor, and James A. Taylor, Jr.*, both of Warrior, Alabama; to collectively acquire additional voting shares of Warrior Capital Corporation, Warrior, Alabama, and thereby acquire Warrior Savings Bank, Warrior, Alabama.

*2. Kennon R. Patterson, Sr., Carolyn Patterson, and Kennon R. Patterson, Jr.*, as a group, all of Boaz, Alabama; to acquire additional voting shares of Community Bancshares, Inc., Blountsville, Alabama, and thereby indirectly acquire Community Bank, Blountsville, Alabama.

Board of Governors of the Federal Reserve System, February 13, 1998.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 98–4192 Filed 2–18–98; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the

standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 16, 1998.

**A. Federal Reserve Bank of Cleveland** (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

*1. Traditional Bancorporation, Inc.*, Mt. Sterling, Kentucky; to acquire 100 percent of the voting shares of Traditional Bank of Kentucky, Inc., Lexington, Kentucky, which is a state-chartered bank that results from the proposed conversion of Traditional Bank, FSB, which is currently owned by Traditional Bancorporation, Inc.

**B. Federal Reserve Bank of Atlanta** (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

*1. Community Banks of Florida, Inc.*, Naples, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Naples, N.A., Naples, Florida.

Board of Governors of the Federal Reserve System, February 13, 1998.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 98–4191 Filed 2–18–98; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Federal Open Market Committee; Domestic Policy Directive of December 16, 1997

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 16, 1997.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity continued to grow rapidly in recent months. Nonfarm payroll employment increased sharply in October and November; the civilian unemployment rate fell to 4.6 percent in November, its low for the current economic expansion. Industrial production continued to advance at a brisk pace in October and November. Retail sales were unchanged on balance over the two months after rising sharply in the third quarter. Housing starts increased slightly further in October and November. Available information suggests on balance that business fixed investment will slow from the exceptionally strong increases of the second and third quarters. The nominal deficit on U.S. trade in goods and services widened significantly in the third quarter from its rate in the second quarter. Price inflation has remained subdued, despite some increase in the pace of advance in wages.

Short-term interest rates have registered small mixed changes since the day before the Committee meeting on November 12, 1997, while bond yields have fallen somewhat. Share prices in U.S. equity markets recorded mixed changes over the period; equity markets in other countries, notably in Asia, have remained volatile. In foreign exchange markets, the value of the dollar has risen over the intermeeting period in terms of both the trade-weighted index of the other G-10 countries and the currencies of a number of Asian countries.

M2 and M3 grew rapidly in November. For the year through November, M2 expanded at a rate slightly above the upper bound of its range for the year and M3 at a rate substantially above the upper bound of its range. Total domestic nonfinancial debt has expanded in recent months at a pace somewhat below the middle of its range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the ranges it had established in February for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1996 to the fourth quarter of 1997. The range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 1998, the Committee agreed on a tentative basis to set the same ranges as in 1997 for growth of the monetary aggregates and debt, measured from the fourth quarter of 1997 to the fourth quarter of 1998. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 5-1/2 percent. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, a slightly higher federal funds rate or a slightly lower federal funds rate might be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with some moderation in the growth in M2 and M3 over coming months.

By order of the Federal Open Market Committee, February 9, 1998.

**Donald L. Kohn,**

*Secretary, Federal Open Market Committee.*

[FR Doc. 98–4105 Filed 2–18–98; 8:45 am]

BILLING CODE 6210–01–F

[1] Copies of the Minutes of the Federal Open Market Committee meeting of December 16, 1997, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 11:00 a.m., Monday, February 23, 1998.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Joseph R. Coyne, Assistant to the Board; 202–452–3204.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 13, 1998.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 98–4284 Filed 2–13–98; 4:24 pm]

BILLING CODE 6210–01–P

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0243]**

### Proposed Collection; Comment Request Entitled Fixed Price Contracts

**AGENCY:** Office of GSA Acquisition Policy, GSA.

**ACTION:** Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090–0243).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Fixed Price Contracts.

**DATES:** Comment Due Date: April 20, 1998.

**ADDRESSES:** Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street, NW, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

**SUPPLEMENTARY INFORMATION:**

#### A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0243, concerning Fixed Price Contracts. This information collection prescribes an economic price adjustment clause in Federal Supply Service multiple award service (MAS) contracts. This clause is used to adjust MAS contract price and requires a MAS contractor to furnish certain pricing information when the MAS contractor requests a price adjustment under the MAS contract.

#### B. Annual Reporting Burden

*Respondents:* 2914; *annual responses:* 4,371; *average hours per response:* .5; *burden hours:* 2,186.

Copy of proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street, NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: February 10, 1998.

**Ida M. Ustad,**

*Deputy Associate Administrator, Office of Acquisition Policy.*

[FR Doc. 98–4132 Filed 2–18–98; 8:45 am]

BILLING CODE 6820–61–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### CDC Advisory Committee on HIV and STD Prevention and Hospital Infection Control Practices Advisory Committee Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meetings.

*Name:* CDC Advisory Committee on HIV and STD Prevention (CDC ACHSP).

*Time and Date:* 8:30 a.m.–5 p.m., March 11, 1998.

*Place:* Corporate Square Office Park, Corporate Square Boulevard, Building 11, Conference Room 1413A, Atlanta, Georgia 30329, telephone 404/639–8008.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

*Purpose:* This committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV and STD prevention efforts including maintaining surveillance of HIV infection, AIDS, and STDs, the epidemiologic and laboratory study of HIV/AIDS and STDs, information/education and risk reduction activities designed to prevent the spread of HIV and STDs, and other preventive measures that become available.

*Matters to be Discussed:* Agenda items will include discussions regarding building HIV prevention capacity in racial/ethnic minority communities; issues pertaining to integration of HIV/STD prevention efforts; and enhancing communication strategies between CDC and its partners.

*Contact Person for More Information:* Beth Wolfe, Committee Management Specialist, National Center for HIV, STD, and TB Prevention, CDC, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8008.

*Name:* CDC Advisory Committee on HIV and STD Prevention (CDC ACHSP) and Hospital Infection Control Practices Advisory Committee (HICPAC).

*Time and Date:* 8:30 a.m.–5 p.m., March 12, 1998.

*Place:* CDC, Building 1, Auditorium A, 1600 Clifton Road, E, Atlanta, Georgia 30333.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people. Envision capability will be available at Corporate Square Office Park, Corporate Square Boulevard, Building 11, Conference Room 1413A, Atlanta, Georgia 30329.

*Purpose:* The joint CDC ACHSP/HICPAC committees will discuss CDC recommendations relevant to health care workers (HCW) infected with HIV or other bloodborne pathogens. A working group report, from the February 11, 1998 meeting, will be presented that will include a list of options, with the ''pros'' and ''cons'' for each option, regarding recommendations for existing infected HCW guidelines.

*Matters to be Discussed:* The Committees will review relevant scientific information gathered since the implementation of the 1991 CDC recommendations; discuss the implications of this updated information vis-a-vis the potential revision of the 1991 recommendations; and advise CDC regarding current HIV-infected HCW recommendations.

*Contact Persons for More Information:* Adelisa Panlilio, M.D., Medical Epidemiologist, HIV Infections Branch, Hospital Infections Program, National Center for Infectious Diseases, CDC, 1600 Clifton Road, NE, M/S E–68, Atlanta, Georgia 30333, telephone 404/639–6425, or Beth Wolfe, Committee Management Specialist, National Center for HIV, STD, and TB Prevention, CDC, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8008.

*Name:* Hospital Infection Control Practices Advisory Committee (HICPAC).

*Time and Date:* 8:30 a.m.–4:30 p.m., March 13, 1998.

*Place:* Corporate Square Office Park, Corporate Square Boulevard, Building 11, Conference Room 1413, Atlanta, Georgia 30329, telephone.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

*Purpose:* The Committee is charged with providing advice and guidance to the Secretary; the Assistant Secretary for Health; the Director, CDC; and the Director, NCID, CDC, regarding the practice of hospital infection control and strategies for surveillance, prevention, and control of nosocomial infections in U.S. hospitals; and updating guidelines and other policy statements regarding prevention of nosocomial infections.

*Matters to be Discussed:* Agenda items will include a review of the strategic direction of HICPAC; the third draft of the Guideline for Prevention of Surgical Site Infections; priority areas for HICPAC/CDC guideline development; and CDC activities of interest to the Committee.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Michele L. Pearson, M.D., Medical Epidemiologist, Investigation and Prevention Branch, Hospital Infections Program, NCID, CDC, 1600 Clifton Road, NE, M/S E–69, Atlanta, Georgia 30333, telephone 404/639–6413.

Dated: February 12, 1998.

**Julia M. Fuller**

*Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).*

[FR Doc. 98–4141 Filed 2–18–98; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Intent To Reallot Part C—Protection and Advocacy Funds to States for Developmental Disabilities Expenditures

**AGENCY:** Administration on Developmental Disabilities, ACF, DHHS.

**ACTION:** Notice of intent to reallot Fiscal Year 1998 funds, pursuant to Section 125 and Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act, as amended (Act).

**SUMMARY:** The Administration on Developmental Disabilities herein gives notice of intent to reallot funds which were set aside in accordance with Section 142(c)(5) of the Act. Of the $806,682 which was set aside for technical assistance and Indian Consortiums, $534,360 will be utilized for technical assistance and $136,161 was awarded to an Indian Consortium. Therefore, the balance of $136,161 has been released for reallotment.

Any State or Territory which wishes to release funds or cannot use the additional funds under Part C—Protection and Advocacy program for Fiscal Year 1998 should notify Joseph Lonergan, Director, Division of Formula, Entitlement and Block Grants, Office of Administration, Office of Financial Services, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, in writing within thirty (30) days of the date of this promulgation. Reallotment awards are anticipated to be dated 30 days from the date of this notice. This notice is hereby given in accordance with Sections 125 and 142 of the Act.

**FOR FURTHER INFORMATION CONTACT:** Joanne Moore on (202) 205–4792.

The proposed reallotment for part C—Protection and Advocacy program are set forth below:

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES FISCAL YEAR 1998 REALLOTMENT

| | Protection and advocacy | Reallotment | Revised allotment |
|---|---|---|---|
| Alabama | 437,281 | 2,289 | 439,570 |
| Alaska | 254,508 | 1,332 | 255,840 |
| Arizona | 349,299 | 1,828 | 351,127 |
| Arkansas | 261,832 | 1,371 | 263,203 |
| California | 2,222,446 | 11,636 | 2,234,082 |
| Colorado | 279,637 | 1,464 | 281,101 |
| Connecticut | 263,419 | 1,379 | 264,798 |
| Delaware | 254,508 | 1,332 | 255,840 |
| Dist. of Columbia | 254,508 | 1,332 | 255,840 |
| Florida | 1,075,064 | 5,627 | 1,080,691 |
| Georgia | 604,625 | 3,165 | 607,790 |
| Hawaii | 254,508 | 1,332 | 255,804 |
| Idaho | 254,508 | 1,332 | 255,804 |
| Illinois | 909,119 | 4,759 | 913,878 |
| Indiana | 504,066 | 2,638 | 506,704 |
| Iowa | 261,300 | 1,368 | 262,668 |
| Kansas | 254,508 | 1,332 | 255,840 |
| Kentucky | 407,287 | 2,132 | 409,419 |
| Louisiana | 465,824 | 2,438 | 468,262 |
| Maine. | 254,508 | 1,332 | 255,840 |
| Maryland | 341,616 | 1,788 | 343,404 |
| Massachusetts | 449,198 | 2,351 | 451,549 |
| Michigan | 823,575 | 4,311 | 827,886 |
| Minnesota | 356,141 | 1,864 | 358,005 |
| Mississippi | 314,173 | 1,644 | 315,817 |
| Missouri | 459,932 | 2,407 | 462,339 |
| Montana | 254,508 | 1,332 | 255,840 |
| Nebraska | 254,508 | 1,332 | 255,840 |
| Nevada | 254,508 | 1,332 | 255,840 |
| New Hampshire | 254,508 | 1,332 | 255,840 |
| New Jersey | 521,394 | 2,729 | 524,123 |
| New Mexico | 254,508 | 1,332 | 255,840 |
| New York | 1,391,017 | 7,281 | 1,398,298 |
| North Carolina | 640,299 | 3,352 | 643,651 |

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES FISCAL YEAR 1998 REALLOTMENT—Continued

| | Protection and advocacy | Reallotment | Revised allotment |
|---|---|---|---|
| North Dakota | 254,508 | 1,332 | 255,840 |
| Ohio | 988,431 | 5,174 | 993,605 |
| Oklahoma | 308,297 | 1,614 | 309,911 |
| Oregon | 264,661 | 1,385 | 266,046 |
| Pennsylvania | 1,048,495 | 5,488 | 1,053,983 |
| Rhode Island | 254,508 | 1,332 | 255,840 |
| South Carolina | 363,846 | 1,904 | 365,750 |
| South Dakota | 254,508 | 1,332 | 255,840 |
| Tennessee | 493,564 | 2,583 | 496,147 |
| Texas | 1,523,272 | 7,973 | 1,531,245 |
| Utah | 254,508 | 1,332 | 255,840 |
| Vermont | 254,508 | 1,332 | 255,840 |
| Virginia | 509,109 | 2,665 | 511,774 |
| Washington | 390,561 | 2,044 | 392,605 |
| West Virginia | 275,079 | 1,440 | 276,519 |
| Wisconsin | 446,639 | 2,338 | 448,977 |
| Wyoming | 254,508 | 1,332 | 255,840 |
| American Samoa | 136,161 | 713 | 136,874 |
| Guam | 136,161 | 713 | 136,874 |
| Puerto Rico | 800,657 | 4,191 | 804,848 |
| Virgin Islands | 136,161 | 713 | 136,874 |
| Northern Mariana Islands | 136,161 | 713 | 136,874 |
| Palau** | 34,375 | 0 | 34,375 |
| AZ DNA People's Legal Services | 136,161 | 713 | 136,874 |
| Total | *$26,047,479 | $136,161 | $26,183,640 |

* Includes the award of $136,161 to an Indian Consortium (AZ DNA People's Legal Services) in accordance with Section 142(b).
** Palau's allotment was reduced to 25% of its Fiscal Year 1995 allotment, in accordance with the Compact of Free Association with the Republic of Palau.

Dated: January 27, 1998.

**Reginald F. Wells,**

*Acting Commissioner, Administration on Developmental Disabilities.*

[FR Doc. 98–4114 Filed 2–18–98; 8:45 am]

BILLING CODE 4184–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Federal Allotments to State Developmental Disabilities Councils (DDCs) and Protection and Advocacy (P&A) Formula Grant Programs for Fiscal Year 1999

**AGENCY:** Administration on Developmental Disabilities, ACF, DHHS.

**ACTION:** Notification of Fiscal Year 1999 federal allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs.

**SUMMARY:** This notice sets forth Fiscal Year 1999 individual allotments and percentages to States administering the State Developmental Disabilities Councils and Protection and Advocacy programs, pursuant to Section 125 and Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (Act). The allotment amounts are based on the 1999 Budget Request and are contingent upon Congressional appropriations for Fiscal Year 1999. If Congress enacts and the President approves a different appropriation amount, the allotments will be adjusted accordingly.

**EFFECTIVE DATE:** October 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Joanne Moore, Grants Fiscal Management Specialist, Family Support Branch, Division of Formula, Entitlement and Block Grants, Office of Financial Operations, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Telephone (202) 205–4792.

**SUPPLEMENTARY INFORMATION:** Section 125(a)(2) of the Act requires that adjustments in the amounts of State allotments may be made not more often than annually and that States are to be notified not less than six (6) months before the beginning of any fiscal year of any adjustments to take effect in that fiscal year. It should be noted that, as required by the Compact of Free Association, Palau is no longer eligible to receive funds. Also, in relation to the State DDC allotments, the description of service needs were reviewed in the State plans and are consistent with the results obtained from the data elements and projected formula amounts for each State (Section 125(a)(5)).

The Administration on Developmental Disabilities has updated the data elements for issuance of Fiscal Year 1999 allotments for the Developmental Disabilities formula grant programs. The data elements used in the update are:

A. The number of beneficiaries in each State and Territory under the Childhood Disabilities Beneficiary Program, December 1996, are from Table 5.J10 of the ''Social Security Bulletin: Annual Statistical Supplement 1997'' issued by the Social Security Administration. The numbers for the Northern Mariana Islands and the Republic of Palau, were obtained from the Social Security Administration;

B. State data on Average Per Capita Income are from Table SA05 of the ''Survey of Current Business,'' September 1997, issued by the Bureau of Economic Analysis, U.S. Department of Commerce; comparable data for the Territories also were obtained from that Bureau; and

C. State data on Total Population and Working Population (ages 18–64) as of

July 1, 1996, are from the ''Estimates of Resident Population of the U.S. by Selected Age Groups and Sex,'' issued by the Bureau of the Census, U.S. Department of Commerce. Estimates for the Territories are no longer available, therefore, the Territories population data are from the 1990 Census Population Counts. The Territories' working populations were issued in the Bureau of Census report, ''General Characteristics Report: 1980,'' which is the most recent data available from the Bureau.

TABLE 1.—FY 1999 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

| | State developmental disabilities councils | Percentage |
|---|---|---|
| Alabama | 1,262,259 | 1.947840 |
| Alaska | 403,093 | .622028 |
| Arizona | 852,423 | 1.315407 |
| Arkansas | 736,837 | 1.137041 |
| California | 5,577,046 | 8.606154 |
| Colorado | 702,518 | 1.084083 |
| Connecticut | 636,591 | .982348 |
| Delaware | 403,093 | .622028 |
| District of Columbia | 403,093 | .622028 |
| Florida | 2,738,070 | 4.225221 |
| Georgia | 1,588,851 | 2.451817 |
| Hawaii | 403,093 | .622028 |
| Idaho | 403,093 | .622028 |
| Illinois | 2,546,854 | 3.930148 |
| Indiana | 1,405,035 | 2.168164 |
| Iowa | 763,028 | 1.177458 |
| Kansas | 585,695 | .903808 |
| Kentucky | 1,167,867 | 1.802180 |
| Louisiana | 1,355,910 | 2.092357 |
| Maine | 403,093 | .622028 |
| Maryland | 888,141 | 1.370525 |
| Massachusetts | 1,232,510 | 1.901934 |
| Michigan | 2,260,430 | 3.488156 |
| Minnesota | 966,203 | 1.490985 |
| Mississippi | 899,332 | 1.387794 |
| Missouri | 1,271,439 | 1.962006 |
| Montana | 403,093 | .622028 |
| Nebraska | 408,345 | .630133 |
| Nevada | 403,093 | .622028 |
| New Hampshire | 403,093 | .622028 |
| New Jersey | 1,431,868 | 2.209571 |
| New Mexico | 443,040 | .683672 |
| New York | 3,978,100 | 6.138759 |
| North Carolina | 1,742,318 | 2.688638 |
| North Dakota | 403,093 | .622028 |
| Ohio | 2,751,462 | 4.245887 |
| Oklahoma | 875,044 | 1.350314 |
| Oregon | 674,085 | 1.040206 |
| Pennsylvania | 2,982,934 | 4.603080 |
| Rhode Island | 403,093 | .622028 |
| South Carolina | 1,015,658 | 1.567301 |
| South Dakota | 403,093 | .622028 |
| Tennessee | 1,384,131 | 2.135906 |
| Texas | 4,113,194 | 6.347228 |
| Utah | 500,192 | .771866 |
| Vermont | 403,093 | .622028 |
| Virginia | 1,317,943 | 2.033768 |
| Washington | 1,022,075 | 1.577203 |
| West Virginia | 728,694 | 1.124476 |
| Wisconsin | 1,231,659 | 1.900620 |
| Wyoming | 403,093 | .622028 |
| American Samoa | 211,624 | .326565 |
| Guam | 211,624 | .326565 |
| Northern Mariana Islands | 211,624 | .326565 |
| Puerto Rico | 2,275,421 | 3.511290 |
| Virgin Islands | 211,624 | .326565 |
| Total | [1] $64,803,000 | 100.000000 |

[1] Allocations are computed based on the requirements of Section 125(a)(3)(B)—Reduction of Allotment of the Act.

TABLE 2.—FY 1999 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

| | Protection and Advocacy | Percentage |
|---|---|---|
| Alabama | 436,987 | 1.686472 |
| Alaska | 254,508 | .982227 |
| Arizona | 360,189 | 1.390084 |
| Arkansas | 263,883 | 1.018408 |
| California | 2,234,168 | 8.622363 |
| Colorado | 281,009 | 1.084503 |
| Connecticut | 263,430 | 1.016660 |
| Delaware | 254,508 | .982227 |
| District of Columbia | 254,508 | .982227 |
| Florida | 1,086,982 | 4.195009 |
| Georgia | 608,862 | 2.349792 |
| Hawaii | 254,508 | .982227 |
| Idaho | 254,508 | .982227 |
| Illinois | 901,195 | 3.477998 |
| Indiana | 504,189 | 1.945825 |
| Iowa | 259,794 | 1.002628 |
| Kansas | 254,508 | .982227 |
| Kentucky | 408,553 | 1.576736 |
| Louisiana | 467,174 | 1.802973 |
| Maine | 254,508 | .982227 |
| Maryland | 343,626 | 1.326162 |
| Massachusetts | 446,073 | 1.721537 |
| Michigan | 819,631 | 3.163216 |
| Minnesota | 355,911 | 1.373574 |
| Mississippi | 311,898 | 1.203713 |
| Missouri | 461,835 | 1.782368 |
| Montana | 254,508 | .982227 |
| Nebraska | 254,508 | .982227 |
| Nevada | 254,508 | .982227 |
| New Hampshire | 254,508 | .982227 |
| New Jersey | 522,698 | 2.017257 |
| New Mexico | 254,508 | .982227 |
| New York | 1,391,367 | 5.369727 |
| North Carolina | 643,130 | 2.482043 |
| North Dakota | 254,508 | .982227 |
| Ohio | 982,375 | 3.791297 |
| Oklahoma | 310,137 | 1.196917 |
| Oregon | 266,483 | 1.028442 |
| Pennsylvania | 1,046,311 | 4.038046 |
| Rhode Island | 254,508 | .982227 |
| South Carolina | 364,853 | 1.408084 |
| South Dakota | 254,508 | .982227 |
| Tennessee | 494,739 | 1.909355 |
| Texas | 1,542,970 | 5.954811 |
| Utah | 254,508 | .982227 |
| Vermont | 254,508 | .982227 |
| Virginia | 510,974 | 1.972011 |
| Washington | 395,431 | 1.526094 |
| West Virginia | 275,882 | 1.064716 |
| Wisconsin | 444,310 | 1.714733 |
| Wyoming | 254,508 | .982227 |
| American Samoa | 136,161 | .525489 |
| Guam | 136,161 | .525489 |
| Northern Mariana Islands | 136,161 | .525489 |
| Puerto Rico | 778,481 | 3.004405 |
| Virgin Islands | 136,161 | .525489 |
| Total | [1] $25,911,318 | 100.000000 |

[1] In accordance with Public Law 104–183, Section 142(c)(5), $806,682 has been withheld for funding technical assistance and American Indian Consortiums. The statute provides for spending up to two percent (2%) of the amount appropriated under Section 143 to fund technical assistance. American Indian Consortiums are eligible to receive an allotment under Section 142(c)(1)(A)(i). Unused funds will be reallotted in accordance with Section 142(c)(1) of the Act.

Dated: February 11, 1998.

**Reginald F. Wells,**

*Acting Commissioner, Administration on Developmental Disabilities.*

[FR Doc. 98–4115 Filed 2–18–98; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Fiscal Year 1998 Discretionary Announcement for University-Head Start Partnerships Research Projects and Head Start Research Scholars; Availability of Funds and Request for Proposals

**AGENCY:** Administration on Children, Youth and Families, ACF, DHHS.

**ACTION:** Notice.

**SUMMARY:** The Administration for Children and Families, Administration on Children, Youth and Families announces the availability of funds for two Priority Areas; University-Head Start Partnerships (1.01) and Head Start Research Scholars (1.02) to support research activities in the areas of infant and toddler development within the cultural context, the promotion of mental health in Head Start and Early Head Start, or field-initiated research areas which will increase our knowledge of low-income children's development for the purpose of improving services or have significant policy implications.

**DATES:** The closing date for receipt of applications is 5:00 EST May 5, 1998.

**ADDRESSES:** Applications, including all necessary forms can be downloaded from the Head Start web site at www.acf.dhhs.gov/programs/hsb. The web site also contains a listing of all Head Start and Early Head Start programs.

Hard copies of the application may be obtained by writing, calling or sending an e-mail to the E-mail hsresearch@dakota-tech.com

**FOR FURTHER INFORMATION CONTACT:** Head Start Research Support Center at: 11320 Random Hills Road, Suite 105, Fairfax, Virginia 22030, Phone: (703) 218–2480.

**SUPPLEMENTARY INFORMATION:**

#### Priority Areas

*Priority Area 1.01 University-Head Start Partnerships*

*Eligible Applicants:* Universities and four-year colleges on behalf of a faculty member who holds a doctorate degree or equivalent in their respectivie field.

*Project Duration:* The announcement for priority area 1.01 is soliciting applications for project periods of three years with the first year as a planning year. However, requests for project periods of four or five years will be considered if the applicant can make a strong justification for the need for the longer project period in order to complete the research. It should be noted that the requests for longer project periods will be granted in only rare instances. Awards, on a competitive basis, will be for the first one-year planning budget period. Applications for continuation grants funded under these awards beyond the one-year budget period, but within the established project period, will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

*Federal Share of Project Costs:* The maximum Federal share is $75,000 for the first 12-month budget period. The Federal share for subsequent years shall be approximately $150,000 per year for each year of the project period. The Federal share is inclusive of indirect costs.

*Anticipated Number of Projects to be Funded:* It is anticipated that 6–8 projects will be funded.

*Priority Area 1.02 Head Start Research Scholars*

*Eligible Applicants:* Institutions of higher education on behalf of qualified doctoral candidates who have completed their masters degree or equivalent and are enrolled in the sponsoring institution. To be eligible to administer the grant on behalf of the student, the institution must be fully accredited by one of the regional accrediting commissions recognized by the Department of Education and the Council on Post-Secondary Accreditation. In addition, the specific graduate student on whose behalf the application is made must be identified and any resultant grant award is not transferable to another student. Funds from this grant may not be used to make any payments to other students at the university.

*Project Duration:* The announcement for priority area 1.02 is soliciting applications for project periods up to two years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for two years. It should be noted, that if the graduate student, on whose behalf the University is applying, expects to receive a doctorate by the end of the first one-year budget period, the applicant should request a one-year project period only. A second year budget-period will not be granted if the student has graduated by the end of the first year. Applications for continuation grants funded under these awards beyond the one-year budget period, but within the two-year project period, will be entertained in the subsequent year on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

*Federal Share of Project Costs:* The maximum Federal share is not to exceed $15,000 for the first 12-month budget period or a maximum of $30,000 for a 2-year project period.

*Anticipated Number of Projects to be Funded:* It is anticipated that 10 projects will be funded. No individual university will be funded for more than one candidate unless 10 applications from different institutions do not qualify for support.

**Statutory Authority:** The Head Start Act, as amended 42 U.S.C. 9801 *et seq.*

Dated: February 11, 1998.

**James A. Harrell,**

*Deputy Commissioner, Administration on Children, Youth, and Families.*

[FR Doc. 98–4113 Filed 2–18–98; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Anti-Infective Drugs Advisory Committee Meeting; Amendment of Notice

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Anti-Infective Drugs Advisory Committee meeting. This meeting was announced in the **Federal Register** of February 3, 1998 (63 FR 5562). The amendment is being made to reflect a change in the agenda for the February 19, 1998, meeting day. An additional indication for use in the treatment of infections caused by *Staphylococcus aureus* will also be discussed. There are no other changes. This amendment will be announced at the beginning of the open portion of the meeting.

**FOR FURTHER INFORMATION CONTACT:** Ermona B. McGoodwin or Danyiel A. D'Antonio, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of February 3, 1998 (63 FR 5562), FDA announced that a meeting of the Anti-Infective Drugs Advisory Committee would be held on February 19 and 20, 1998. This amendment is to provide an update to the information provided earlier pertaining to the February 19, 1998, meeting day. There are no changes for the February 20, 1998, meeting day. On page 5562, in the second column, the ''*Agenda*'' portion is amended to read as follows:

*Agenda*: On February 19, 1998, the committee will discuss new drug applications 50–747 and 50–748 quinupristin/dalfopristin (Synercid®, Rhone-Poulenc Rorer Pharmaceuticals, Inc.) for use in the treatment of vancomycin-resistant *Enterococcus faecium* (VREF) infections, complicated skin and skin structure infections, community-acquired pneumonia, hospital-acquired (nosocomial) pneumonia, and infections caused by *Staphylococcus aureus*.

Dated: February 11, 1998.

**Michael A. Friedman,**

*Deputy Commissioner for Operations.*

[FR Doc. 98–4078 Filed 2–18–98; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Blood Products Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee*: Blood Products Advisory Committee.

*General Function of the Committee*: To provide advice and recommendations to the agency on FDA regulatory issues.

*Date and Time*: The meeting will be held on March 19, 1998, 8 a.m. to 6 p.m., and March 20, 1998, 8 a.m. to 3:30 p.m.

*Location*: DoubleTree Hotel, Plaza I, II and III, 1750 Rockville Pike, Rockville, MD.

*Contact Person*: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 19516. Please call the Information Line for up-to-date information on this meeting.

*Agenda*: On March 19, 1998, the Committee will hear an informational summary of the emerging infections plan of action and discuss and provide recommendations on the issue of the FDA proposal on plasma inventory hold. The committee will also discuss the comparison of infectious disease marker rates in paid versus volunteer donors. On March 20, 1998, the Committee will discuss and make recommendations on the issue of classification of blood bank software and the relative safety of solvent detergent-treated pooled plasma and single-donor plasma, donor retested. The meeting will conclude with an informational presentation on the FDA proposal for donor deferrals related to xenotransplantation.

*Procedure*: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 9, 1998. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11 a.m. and 4 p.m. and 5 p.m on March 19, 1998, and between approximately 9:30 a.m. and 10 a.m. and 1 p.m. and 1:30 p.m. on March 20, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 9, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C., app. 2).

Dated: February 11, 1998.

**Michael A. Friedman,**

*Deputy Commissioner for Operations.*

[FR Doc. 98–4075 Filed 2–18–98; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Oncologic Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee*: Oncologic Drugs Advisory Committee.

*General Function of the Committee*: To provide advice and recommendations to the agency on FDA regulatory issues.

*Date and Time*: The meeting will be held on March 19 and 20, 1998, from 8 a.m. to 5 p.m.

*Location*: Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

*Contact Person*: Karen M. Templeton-Somers or Adele S. Seifried, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

*Agenda*: On March 19, 1998, the committee will discuss: (1) New drug application (NDA) supplement 20–509/S–005 Gemzar® (gemcitabine HCl), Eli Lilly and Co., indicated as a single agent or in combination with cisplatin for the first-line treatment of patients with locally advanced (Stage IIIA or IIIB) or metastatic (Stage IV) non-small cell lung cancer; and (2) NDA 20–896 Xeloda™ (capecitabine) tablets, Hoffman-La Roche Inc., indicated for the treatment of patients with locally advanced or metastatic breast cancer after failure of paclitaxel and an anthracycline-containing chemotherapy. On March 20, 1998, the committee will discuss: (1) NDA supplement 20–262/S–026 Taxol® (pacletaxel) injection, Bristol-Myers Squibb Pharmaceutical Research Institute, indicated as first-line therapy for the treatment of advanced carcinoma of the ovary; and (2) NDA supplement 20–262/S–024 Taxol® (pacletaxel) injection, Bristol-Myers Squibb Pharmaceutical Research Institute, indicated for the treatment of non-small cell lung cancer in patients who are not candidates for potentially curative and/or radiation therapy.

*Procedure*: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 26, 1998. Oral presentations from the public will be scheduled between approximately 8 a.m. and 9 a.m., on March 19, 1998, and 8 a.m. and 8:30 a.m. on March 20, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 26, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C., app. 2).

Dated: February 11, 1998.

**Michael A. Friedman,**

*Deputy Commissioner for Operations.*

[FR Doc. 98–4079 Filed 2–18–98; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 96N–0082]**

### Agency Information Collection Activities; Announcement of OMB Approval

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Medical Devices; Classification/ Reclassification; Restricted Devices; Analyte Specific Reagents'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

**FOR FURTHER INFORMATION CONTACT:** Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 21, 1997 (62 FR 62243), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0361. The approval expires on January 31, 2001.

Dated: February 9, 1998.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 98–4080 Filed 2–18–98; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[HCFA–1897–N]**

### Medicare Program; Update of Ambulatory Surgical Center Payment Rates Effective for Services on or After October 1, 1997

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the update of Ambulatory Surgical Center payment rates effective for services on or after October 1, 1997. It implements section 1833(i)(2)(C) of the Social Security Act, which mandates an inflation adjustment to Medicare payment amounts for ambulatory surgical center (ASC) facility services during the years when the payment amounts are not updated based on a survey of the actual audited costs incurred by ASCs.

**EFFECTIVE DATE:** The payment rates contained in this notice are effective for services furnished on or after October 1, 1997.

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**FOR FURTHER INFORMATION CONTACT:** Joan Haile Sanow, (410) 786–5723.

**SUPPLEMENTARY INFORMATION:**

#### I. Background and Legislative Authority

Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) provides that benefits under the Medicare Supplementary Medical Insurance (Part B) program include services furnished in connection with those surgical procedures that, under section 1833(i)(1)(A) of the Act, are specified by the Secretary and are performed on an inpatient basis in a hospital but that also can be performed safely on an ambulatory basis in an ambulatory surgical center (ASC), in a rural primary care hospital, or in a hospital outpatient department. To participate in the Medicare program as an ASC, a facility must meet the standards specified under section 1832(a)(2)(F)(i) of the Act and the basic requirements for ASCs set forth in our regulations at 42 CFR 416.25.

Generally, there are two elements in the total charge for a surgical procedure: A charge for the physician's professional services for performing the procedure, and a charge for the facility's services (for example, use of an operating room). Section 1833(i)(2)(A) of the Act authorizes the Secretary to pay ASCs a prospectively determined rate for facility services associated with covered surgical procedures. ASC facility services are subject to the usual Medicare Part B deductible and coinsurance requirements. Therefore, Medicare pays participating ASCs 80 percent of the prospectively determined rate for facility services, adjusted for regional wage variations. This rate is intended to represent our estimate of a fair payment that takes into account the costs incurred by ASCs generally in providing the services that are furnished

in connection with performing the procedure. Currently, this rate is a standard overhead amount that does not include physician fees and other medical items and services (for example, durable medical equipment for use in the patient's home) for which separate payment may be authorized under other provisions of the Medicare program.

We have grouped procedures into nine groups for purposes of ASC payment rates. The ASC facility payment for all procedures in each group is established at a single rate adjusted for geographic variation. The rate is a standard overhead amount that covers the cost of services such as nursing, supplies, equipment, and use of the facility. (For an in-depth discussion of the methodology and rate-setting procedures, see our **Federal Register** notice published on February 8, 1990, entitled ''Medicare Program; Revision of Ambulatory Surgical Center Payment Rate Methodology'' (55 FR 4526).)

*Statutory Provisions*

Section 1833(i)(2)(A) of the Act requires the Secretary to review and update standard overhead amounts annually. Section 1833(i)(2)(A)(ii) requires that the ASC facility payment rates result in substantially lower Medicare expenditures than would have been paid if the same procedure had been performed on an inpatient basis in a hospital. Section 1833(i)(2)(A)(iii) requires that payment for insertion of an intraocular lens (IOL) include an allowance for the IOL that is reasonable and related to the cost of acquiring the class of lens involved.

Under section 1833(i)(3)(A), the aggregate payment to hospital outpatient departments for covered ASC procedures is equal to the lesser of the following two amounts:

- The amount paid for the same services that would be paid to the hospital under section 1833(a)(2)(B) (that is, the lower of the hospital's reasonable costs or customary charges less deductibles and coinsurance).
- The amount determined under section 1833(i)(3)(B)(i) based on a blend of the lower of the hospital's reasonable costs or customary charges, less deductibles and coinsurance, and the amount that would be paid to a free-standing ASC in the same area for the same procedures.

Under section 1833(i)(3)(B)(i), the blend amount for a cost reporting period is the sum of the hospital cost proportion and the ASC cost proportion. Under section 1833(i)(3)(B)(ii), the hospital cost proportion and the ASC cost proportion for portions of cost reporting periods beginning on or after January 1, 1991 are 42 and 58 percent, respectively.

Section 13531 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (Public Law 103–66), enacted on August 10, 1993, prohibited the Secretary from providing for any inflation update in the payment amounts for ASCs determined under section 1833(i)(2) (A) and (B) of the Act for fiscal years (FYs) 1994 and 1995. Section 13533 of OBRA 1993 reduced the amount of payment for an IOL inserted during or subsequent to cataract surgery in an ASC on or after January 1, 1994, and before January 1, 1999, to $150.

Section 141(a)(1) of the Social Security Act Amendments of 1994 (SSAA 1994) (Pub. L. 103–432), enacted on October 31, 1994, amended section 1833(i)(2)(A)(i) of the Act to require that, for the purpose of estimating ASC payment amounts, the Secretary survey not later than January 1, 1995, and every 5 years thereafter, the actual audited costs incurred by ASCs, based upon a representative sample of procedures and facilities.

Section 141(a)(2) of SSAA 1994 added section 1833(i)(2)(C) to the Act to provide that, beginning with FY 1996, there be an application of an inflation adjustment during a fiscal year in which the Secretary does not update ASC rates based on survey data of actual audited costs. Section 1833(i)(2)(C) of the Act provides that ASC payment rates be increased by the percentage increase in the consumer price index for urban consumers (CPI–U), as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved, if the Secretary has not updated rates during a fiscal year, beginning with FY 1996.

Section 141(a)(3) of SSAA 1994 amended section 1833(i)(1) of the Act to require the Secretary to consult with appropriate trade and professional organizations in reviewing and updating the list of Medicare-covered ASC procedures.

Section 141(b) of SSAA 1994 requires the Secretary to establish a process for reviewing the appropriateness of the payment amount provided under section 1833(i)(2)(A)(iii) of the Act for IOLs with respect to a class of new technology IOLs. A proposed rule entitled ''Adjustment in Payment Amounts for New Technology Intraocular Lenses'' (BPD–831–P) was published in the **Federal Register** on September 4, 1997 at 62 FR 46698.

Section 4555 of the Balanced Budget Act of 1997 (Pub. L. 105–33) (BBA) amends section 1833(i)(2)(C) of the Act to require, in each of the FYs 1998 through 2002, that the CPI–U factor by which ASC rates are to be adjusted be reduced (but not below zero) by 2.0 percentage points.

*ASC Survey*

Regulations set forth at § 416.140 (''Surveys'') require us to survey a randomly selected sample of participating ASCs no more often than once a year to collect data for analysis or reevaluation of payment rates. In addition, section 1833(i)(2)(A)(i) of the Act requires that, for the purpose of estimating ASC payment amounts, the Secretary survey not later than January 1, 1995, and every 5 years thereafter, the actual audited costs incurred by ASCs, based upon a representative sample of procedures and facilities.

In July 1992, we mailed Form HCFA–452A, Medicare Ambulatory Surgical Center Payment Rate Survey (Part I), to the nearly 1,400 ASCs that were on file as being certified by Medicare at the end of 1991. Part I data provided baseline information for selecting a sample of 320 ASCs to complete Form HCFA–452B, Medicare Ambulatory Surgical Center Payment Rate Survey (Part II). The sample was randomly selected and is representative of ASCs nationally in terms of facility age, utilization, and surgical specialty.

Part II of the ASC survey was mailed to the sample of ASCs in March 1994. Part II of the ASC survey asked for data on costs incurred by the facility that are directly related to performing certain surgical procedures, such as cataract extraction with IOL insertion, as well as information on facility overhead and personnel costs. We asked facilities to report total volume, Medicare volume, operating room time, and their average billed charge for the Medicare covered procedures that were performed at the facility during the survey year. We audited 100 randomly selected Part II surveys between November 1994 and February 1995. We plan to use the 1994 survey data to rebase ASC payment rates. In accordance with rulemaking procedures, we will publish the rebased rate in the **Federal Register** and solicit public comments.

We published our last ASC payment rate update notice on October 1, 1996 (61 FR 51295).

## II. Provisions of This Notice

During years in which the Secretary has not otherwise updated ASC rates based on a survey of actual audited costs, section 1833(i)(2)(C) of the Act, as amended by BBA, requires application of an inflation adjustment. That inflation adjustment must be the

percentage increase in the CPI–U as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved, reduced (but not below zero) by 2.0 percentage points in each of the fiscal years 1998 through 2002. (The CPI–U is a general index that reflects prices paid by urban consumers for a representative market basket of goods and services.)

Based on estimates prepared by Data Resources, Inc./McGraw Hill, the forecast rate of increase in the CPI–U for the FY that ends March 31, 1998 is 2.6 percent. Reducing the CPI–U factor by 2.0 percent results in an adjustment factor of 0.6 percent. Increasing the ASC payment rates currently in effect by 0.6 percent results in the following schedule of rates that are payable for facility services furnished on or after October 1, 1997:

Group 1—$314
Group 2—$422
Group 3—$482
Group 4—$595
Group 5—$678
Group 6—$789 (639+150)
Group 7—$941
Group 8—$928 (778+150)

ASC facility fees are subject to the usual Medicare deductible and copayment requirements. Under section 13531 of OBRA 1993, the allowance for an IOL that is part of the payment rates for group 6 and group 8 is $150.

A ninth payment group allotted exclusively to extracorporeal shockwave lithotripsy (ESWL) services was established in the notice with comment period published December 31, 1991 (56 FR 67666). The decision in *American Lithotripsy Society* v. *Sullivan*, 785 F. Supp. 1034 (D.D.C. 1992), prohibits payment for these services under the ASC benefit at this time. ESWL payment rates were the subject of a separate **Federal Register** proposed notice, which was published October 1, 1993 (58 FR 51355).

We will continue to use the inpatient hospital prospective payment system (PPS) wage index to standardize ASC payment rates for variation due to geographic wage differences in accordance with the ASC payment rate methodology published in the February 8, 1990 notice. The PPS wage index final rule published on August 29, 1997 (62 FR 45965), for implementation on October 1, 1997, will be used to adjust the ASC payment rates announced in this notice for facility services furnished on or after October 1, 1997.

## III. Regulatory Impact Analysis

### *A. Introduction*

This notice implements section 1833(i)(2) of the Act, which mandates an automatic inflation adjustment to Medicare payment amounts for ASC facility services during the years in which the payment amounts are not updated based on a survey of the actual audited costs incurred by ASCs.

Actuarial estimates of the cost of updating the ASC rates by 0.6 percent are as follows:

PROJECTED ADDITIONAL MEDICARE COSTS

| Fiscal year | In millions* |
|---|---|
| 1998 | 15 |
| 1999 | 15 |
| 2000 | 15 |
| 2001 | 15 |
| 2002 | 15 |
| 2003 | 15 |

* Rounded to the nearest $10 million.

The BBA is considered in the estimate, including the prospective payment system for hospital outpatient services to be implemented on January 1, 1999, and the formula-driven overpayment elimination effective October 1, 1997.

### *B. Regulatory Flexibility Act*

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, most ASCs and hospitals are considered to be small entities either by non-profit status or by having resources of $5 million or less annually.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Although we believe that this notice will not have a significant impact on a substantial number of small rural hospitals, it may have a significant impact on a substantial number of ASCs. Therefore, we believe that a regulatory flexibility analysis is required for ASCs. In addition, we are voluntarily providing a brief discussion of the impact this notice may have on hospitals.

1. Impact on ASCs

Section 1833(i)(2)(C) of the Act requires that for FYs 1998 through 2002, we automatically adjust ASC rates for inflation during an FY in which we do not update ASC payment rates based on survey data by a CPI–U factor reduced (but not below zero) by 2.0 percent. Therefore, we are updating the current ASC payment rates, which were published in our October 1, 1996 **Federal Register** notice (61 FR 51295), by incorporating the projected rate of change in the CPI–U for the 12-month period ending March 31, 1998 minus 2.0 percentage points, a net 0.6 percent increase. There are other factors, however, that affect the actual payments to an individual ASC.

First, variations in an ASC's Medicare case mix affect the size of the ASC's aggregate payment increase. Although we uniformly adjusted ASC payment rates by the CPI–U forecast for the 12-month period ending March 31, 1998, we did not adjust the IOL payment allowance that is included in the payment rate for group 6 and group 8 because OBRA 1993 froze the amount of payment for an IOL furnished by an ASC at $150 for the period beginning January 1, 1994 through December 31, 1998. Therefore, because the net adjustment for inflation for procedures in group 6 is 0.51 percent and for group 8 is 0.54 percent, ASCs that perform a high percentage of the IOL insertion procedures that comprise these groups may expect a somewhat lower increase in their aggregate payments than ASCs that perform fewer IOL insertion procedures.

A second factor determining the effect of the change in payment rates is the percentage of total revenue an ASC receives from Medicare. The larger the proportion of revenue an ASC receives from the Medicare program, the greater the impact of the updated rates in this notice. The percentage of revenue derived from the Medicare program depends on the volume and types of services furnished. Since Medicare patients account for as much as 80 percent of all IOL insertion procedures performed in ASCs, an ASC that performs a high percentage of IOL insertion procedures will probably receive a higher percentage of its revenue from Medicare than would an ASC with a case mix comprised largely of procedures that do not involve insertion of an IOL. For an ASC that receives a large portion of its revenue from the Medicare program, the changes in this notice will likely have a greater influence on the ASC's operations and management decisions than they will

have on an ASC that receives a large portion of revenue from other sources.

In general, we expect the rate changes in this notice to affect ASCs positively by increasing the rates upon which payments are based.

2. Impact on Hospitals and Small Rural Hospitals

Section 1833(i)(3)(A) of the Act mandates the method of determining payments to hospitals for ASC-approved procedures performed in an outpatient setting. The Congress believed some comparability should exist in the amount of payment to hospitals and ASCs for similar procedures. The Congress recognized, however, that hospitals have certain overhead costs that ASCs do not and allowed for those costs by establishing a blended payment methodology. For ASC procedures performed in an outpatient setting, hospitals are paid based on the lower of their aggregate costs, aggregate charges, or a blend of 58 percent of the applicable wage-adjusted ASC rate and 42 percent of the lower of the hospital's aggregate costs or charges. According to statistics from the Office of Strategic Planning within HCFA, 12 percent of Medicare payments to hospitals by intermediaries is attributable to services furnished in conjunction with ASC-covered procedures.

We would not expect an ASC rate increase in every instance to keep pace with actual hospital cost increases, although we would fully recognize cost increases resulting from inflation alone in the portion of the blended payment that includes aggregate hospital costs. The weight of the ASC portion of the blended payment amount, which would reflect the ASC rate increase, is offset to a degree when hospital costs significantly exceed the ASC rate. Another element that would eliminate the effect of the ASC rate increase on hospital outpatient payments is the application of the lowest payment screen in determining payments. Applying the lowest of costs, charges, or a blend can result in some hospitals being paid entirely on the basis of a hospital's costs or charges. In those instances, the increase in the ASC rates will have no effect on hospital payments. The number of Medicare beneficiaries a hospital serves and its case-mix variation would also influence the total impact of the new ASC rates on Medicare payments to hospitals. Based on these factors, we have determined, and we certify that this notice will not have a significant impact on a substantial number of small rural hospitals. Therefore, we have not prepared a small rural hospital impact analysis.

## IV. Waiver of 30-Day Delay in the Effective Date

We ordinarily publish notices, such as this, subject to a 30-day delay in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to the public interest, we may waive the delay in the effective date. The provisions of this notice are effective for services furnished on or after October 1, 1997. These provisions will increase payment to ASCs by 0.6 percent (as modified by any change to the wage index), in accordance with section 1833(i)(2)(C) of the Act, as amended by the BBA. As a practical matter, if we allowed a 30-day delay in the effective date of this notice, ASCs would be unable to take timely advantage of the increase in payment rates contained in this notice. Moreover, we believe a delay is impractical and unnecessary because the statute, as explained earlier, provides that ASC payment rates be increased by the percentage increase in the CPI–U if the Secretary has not updated rates during an FY, beginning with FY 1996. Therefore, we find good cause to waive the delay in the effective date.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Sections 1832(a)(2)(F) and 1833(i) (1) and (2) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F) and 1395l(i) (1) and (2)); 42 CFR 416.120, 416.125, and 416.130)

(Catalog of Federal Domestic Assistance Programs No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 9, 1997.

**Nancy-Ann Min DeParle,**

*Deputy Administrator, Health Care Financing Administration.*

Dated: October 30, 1997.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 98–4227 Filed 2–18–98; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4193–N–03]**

## Announcement of Funding Awards Fair Housing Initiatives Program FY 1997

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of the FY 1997 funding awards made under the Fair Housing Initiatives Program (FHIP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing.

**FOR FURTHER INFORMATION CONTACT:** Ivy Davis, Director, FHIP/FHAP Support Division, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410–2000. Telephone number (202) 708–0800 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

**SUPPLEMENTARY INFORMATION:** Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR Part 125.

The FHIP has four funding categories: The Administrative Enforcement Initiative, the Education and Outreach Initiative, the Private Enforcement Initiative, and the Fair Housing Organizations Initiative. This notice announces awards made under the Fair Housing Organizations Initiative, Education and Outreach Initiative, and the Private Enforcement Initiative.

The Department announced in the **Federal Register** on June 26, 1997 (62

FR 34562) the availability of $15,000,000 to be utilized for the Fair Housing Initiatives Program. This Notice announces awards to 67 organizations that submitted applications under the FY 1997 FHIP NOFA.

The Catalog of Federal Domestic Assistance numbers for the Fair Housing Initiative Program are 14.409, 14.410 and 14.413.

The Department reviewed, evaluated and scored the applications received based on the criteria in the FY 1997 FHIP NOFA. As a result, HUD has funded the applications announced in Appendix A, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing details concerning the recipients of funding awards in Appendix A of this document.

Dated: February 10, 1998.

**Eva M. Plaza,**

*Assistant Secretary for Fair Housing and Equal Opportunity.*

APPENDIX A—FY 97 FHIP AWARDS

| Applicant name | Contact person | HUD region | Award amount |
|---|---|---|---|
| **EDUCATION AND OUTREACH INITIATIVE—NATIONAL PROGRAM COMPONENT** | | | |
| Tennessee Fair Housing Council, 719 Thompson Lane, Suite 324, 100 Oak Office Tower, Nashville, TN 37204. | Joel Emerson, 615–383–6155 | 4 | $149,949 |
| National Association of Homebuilders Research Center, Inc., 400 Prince Georges Boulevard, Upper Marlboro, MD 20774. | Liza Bowles, 301–249–4000 | 3 | 103,746 |
| Access Living of Metropolitan Chicago, 310 South Peoria, Suite 201, Chicago, IL 60607. | Rosa Villarreal, 312–226–5900 | 5 | *46,254 |
| **EDUCATION AND OUTREACH INITIATIVE—REGIONAL/LOCAL/COMMUNITY-BASED COMPONENT** | | | |
| Housing Discrimination Project, Inc., 57 Suffolk Street, Holyoke, MA 01040 | Erin Kemple, 413–539–9796 | 1 | 98,450 |
| City of Savannah, P.O. Box 1027, Savannah, GA 31402 | Michael Brown, 912–651–6415 | 4 | 78,010 |
| Elizabeth City State University, 1704 Weeksville Road, Elizabeth City, NC 27909. | Mickey Burnim, 919–335–3220 | 4 | 100,000 |
| Kentucky Commission on Human Rights, 332 W. Broadway, 7th Floor, Heyburn Building, Louisville, KY 40202. | Beverly Watts, 502–595–4024 | 4 | 82,308 |
| City of Memphis—Division of Housing, 701 North Main Street, Memphis, TN 38107. | W.W. Herenton, 901–576–6009 | 4 | 100,000 |
| Metro Milwaukee Fair Housing Council, 600 East Mason Street, Ste 401, Milwaukee, WI 53202. | William Tisdale, 414–278–1240 | 5 | *45,274 |
| The Housing Advocates, 3214 Prospect Avenue, Cleveland, OH 44115 | Edward Kramer, 216–391–5444 | 5 | 100,000 |
| Illinois Department of Human Rights, 100 West Randolph Street, Ste 10–100, Chicago, IL 60601. | Rose Mary Bombela, 312–814–6245 | 5 | 99,669 |
| Montana Fair Housing, Inc., 904A Kensington Avenue, Missoula, MT 59801 | Susan K. Fifield, 406–542–2611 | 8 | 100,000 |
| Seattle Office of Civil Rights, 700 Third Avenue, Suite 250, Seattle, WA 98104. | Germaine Covington, 206–684–4513 | 10 | 96,305 |
| Eugene, Springfield Community Housing Resource Board, P.O. Box 10934, Eugene, OR 97440. | Charles Ellis, 541–343–1271 | 10 | 99,984 |
| **EDUCATION AND OUTREACH INITIATIVE—COMMUNITY TENSIONS COMPONENT** | | | |
| West Tennessee Legal Services, Inc., 210 W. Main Street, Jackson, TN 38302. | J. Steven Xanthopolous, 901–426–1311. | 4 | 100,000 |
| City of Parma, 6611 Ridge Road, Parma, OH 44129 | Michael O'Malley, 440–885–8132 | 5 | 80,331 |
| Chicago Lawyers Committee for Civil Rights Under Law, Inc., 100 N. La Salle Street, Suite 600, Chicago, IL 60602. | Clyde Murphy, 312–630–9744 | 5 | 98,230 |
| Metro Interfaith Council on Affordable Housing, 122 W. Franklin Avenue, #320, Minneapolis, MN 55404. | Joy Navarre, 612–871–8980 | 5 | 99,846 |
| Arkansas ACORN Fair Housing, 523 West 15th Street, Little Rock, AR 72202. | Lorraine Johnson, 501–374–2114 | 6 | 100,000 |
| **PRIVATE ENFORCEMENT INITIATIVE—MULTI YEAR COMPONENT** | | | |
| New Hampshire Legal Assistance, 1361 Elm Street, Suite 307, Manchester, NH 03101. | John Tobin, 603–644–5393 | 1 | 256,492 |
| Connecticut Fair Housing Center, Inc., 221 Main Street, 2nd Floor, Hartford, CT 06106. | Denise Viera, 860–247–4400 | 1 | 350,000 |
| Housing Opportunities Made Equal, Inc., 700 Main Street, Buffalo, NY 14202. | Scott Gehl, 716–854–1400 | 2 | 216,712 |
| Fair Housing Council of Central New York, Inc., 327 W. Fayette Street, Syracuse, NY 13202. | Merrilee Witherell, 315–471–0420 | 2 | 154,659 |
| Long Island Housing Services, 1747 Veterans Memorial Hwy, Ste 42A, Islandia, NY 11722. | Samuel Miller, 516–582–2727 | 2 | 350,000 |
| Fair Housing Council of Suburban Philadelphia, 225 S. Chester Road, Suite 1, Swarthmore, PA 19081. | William Henderson, 610–623–3164 | 3 | 349,999 |
| Fair Housing Partnership of Greater Pittsburgh, 7 Wood Street, Suite 402, Pittsburgh, PA 15222. | Robert Pitts, 412–371–4528 | 3 | 349,328 |

APPENDIX A—FY 97 FHIP AWARDS—Continued

| Applicant name | Contact person | HUD region | Award amount |
|---|---|---|---|
| Housing Opportunities of Northern Delaware, Inc., 1800 N. Broom Street, Suite 105, Electra Arms Apartment Building, Wilmington, DE 19801. | Gladys Spikes, 302–429–0794 | 3 | 50,427 |
| Baltimore Neighborhoods, Inc., 2217 St. Paul Street, Baltimore, MD 21218 | Joseph Coffey, 410–243–4468 | 3 | 262,178 |
| The Fair Housing Continuum, Inc., 840 N. Cocoa Blvd., Suite C, Cocoa, FL 32922. | Fairbanks Berry, 407–633–4551 | 4 | 350,000 |
| Fair Housing Council, 835 W. Jefferson Street, Room 100, Louisville, KY 40202. | Galen Martin, 502–583–3247 | 4 | 349,997 |
| H.O.P.E., Inc., 3000 Biscayne Blvd., Suite 102, Miami, FL 33137 | William Thompson, 305–571–8522 | 4 | 350,000 |
| Greater Birmingham Fair Housing Center, 2000 1st Avenue North, Suite 529, Birmingham, AL 35203. | Lila Hackett, 205–324–0111 | 4 | 350,000 |
| Central Alabama Fair Housing Center, 207 Montgomery Street, Suite 725, Montgomery, AL 36104. | Faith Cooper, 334–263–4663 | 4 | 350,000 |
| Legal Aid Society of Minneapolis, 430 1st Avenue North, Suite 300, Minneapolis, MN 55401. | Jeremy Lane, 612–334–5785 | 5 | 349,997 |
| The Cuyahoga Plan of Ohio, Inc., 812 Huron Road, The Caxton Building, Suite 750, Cleveland, OH 44115. | Michael Roche, 216–621–4525 | 5 | 350,000 |
| North East Wisconsin Fair Housing Council, Inc., 911 N. Lynndale Drive, Ste 2A, Appleton, WI 54914. | Paul Zilles, 920–734–9641 | 5 | 297,305 |
| Housing Opportunities Made Equal of Cincinnati, Inc., 2400 Reading Road, Room 109, Cincinnati, OH 45202. | Karla Irvine, 513–721–4663 | 5 | 305,171 |
| Interfaith Housing Center of the Northern Suburbs, 620 Lincoln Avenue, Winnetka, IL 60093. | Gail Schechter, 847–501–5760 | 5 | 350,000 |
| Louisiana Fair Housing Organization, 1024 Elysian Fields Avenue, New Orleans, LA 70117. | Beulah Labostrie, 504–943–0044 | 6 | 350,000 |
| The Arkansas Fair Housing Council, 901 Carpenter Street, Arkadelphia, AR 71923. | Dan Pless, 870–245–3855 | 6 | 340,503 |
| Metro. St. Louis Equal Housing Opportunity Council, 200 S. Hanley, Ste 613, St. Louis, MO 63105. | Bronwen Zwirner, 314–725–5900 | 7 | 349,604 |
| Family Housing Advisory Services, Inc., 2416 Lake Street, Omaha, NE 68111. | Kevin Danler, 402–444–6675 | 7 | 350,000 |
| North Dakota Fair Housing Council, Inc., 533 Airport Road, Bismarck, ND 58504. | Lynda Johnson, 701–221–2530 | 8 | 349,879 |
| Housing For All, The Metro Denver Fair Housing Center, 2855 Tremont Place, Suite 205, Denver, CO 80205. | Eleanor Crow, 303–443–4836 | 8 | 339,474 |
| Truckee Meadows Fair Housing, Inc., P.O. Box 3935, Reno, NV 89505 | Katherine Copeland, 702–324–0990 | 9 | 350,000 |
| Fair Housing Council of Fresno County, 2014 Tulare Street, Ste 413, Fresno, CA 93721. | Dinorah Olmos, 209–498–6174 | 9 | 349,702 |
| Inland Mediation Board, 1005 Begonia Avenue, Ontario, CA 91762 | Betty Davidow, 909–984–2254 | 9 | 306,541 |
| Greater Nevada Fair Housing Council, Inc., 430 Jeanell Drive, Suite 2, Carson City, NV 89703. | Marcia McCormick, 702–883–0888 | 9 | 258,510 |
| Southern Arizona Housing Center, 1525 N. Oracle, #111, Tucson, AZ 85705. | Richard Rhey, 520–798–1568 | 9 | 349,710 |
| Fair Housing Council of Oregon, 310 S.W. Fourth Avenue, Suite 430, Portland, OR 97204. | Cynthia Ingebretson, 503–223–8295 | 10 | 350,000 |
| Fair Housing Center of Puget Sound, 8815 South Tacoma Way, Suite 119, Lakewood, WA 98499. | Lauren Walker, 253–589–6955 | 10 | 350,000 |
| Idaho Fair Housing Council, 310 N. 5th, Boise, ID 83702 | Richard Mabbutt, 208–383–0695 | 10 | 349,780 |
| **FAIR HOUSING ORGANIZATIONS INITIATIVE—CONTINUED DEVELOPMENT COMPONENT** | | | |
| Champlain Valley Office of Economic Opportunity, P.O. Box 1603, Burlington, VT 05402. | Robert Kiss, 802–862–2771 | 1 | 181,665 |
| Queens Legal Services Corporation, 89–02 Sutphin Boulevard, Jamaica, NY 11435. | Arnold Cohen, 718–657–8611 | 2 | 100,000 |
| National Community Reinvestment Coalition, 733 15th Street, NW, Suite 540, Washington, DC 20005. | John Taylor, 202–628–8866 | 3 | 200,000 |
| Fair Housing Council of Greater Washington, 1212 New York Avenue, Suite 500, Washington, DC 20005. | David Berenbaum, 202–289–5360 | 3 | 200,000 |
| North Carolina Fair Housing Center, P.O. Box 28958, 224 S. Dawson Street, Raleigh, NC 27611. | Stella Adams, 919–856–2166 | 4 | 200,000 |
| Toledo Fair Housing Center, 2116 Madison Avenue, Toledo, OH 43624 | Lisa Rice, 419–243–6163 | 5 | 200,000 |
| Kansas City Fair Housing Center, 3033 Prospect Avenue, Kansas City, MO 64128. | Thomas Randolph, 816–923–3247 | 7 | *69,609 |
| Newsed Community Development Corp., 1029 Santa Fe Drive, Denver, CO 80204. | Veronica Barela, 303–534–8342 | 8 | 198,726 |
| **FAIR HOUSING ORGANIZATIONS INITIATIVE—CONTINUED DEVELOPMENT COMPONENT (DISABILITY SET-ASIDE)** | | | |
| Stavros Center for Independent Living, 691 South East Street, Amherst, MA 10002. | James Kruidenier, 413–256–0473 | 1 | 200,000 |

APPENDIX A—FY 97 FHIP AWARDS—Continued

| Applicant name | Contact person | HUD region | Award amount |
|---|---|---|---|
| Monroe Co. Legal Assistance Corporation, 80 St. Paul Street, Suite 700, Rochester, NY 14604. | Leanna Gibson Hart, 716–325–2520 | 2 | 182,274 |
| Disability Rights Education Defense Fund, 2212 Sixth Street, Alton, IL 62002. | Susan R. Henderson, 510–644–2555 | 5 | 199,811 |
| Albuquerque Protection and Advocacy Systems, Inc., 1720 Louisiana Blvd., N.E., Ste 204, Albuquerque, NM 87110. | James Jackson, 505–256–3100 ..... | 6 | 199,635 |
| Legal Aid of Western Missouri, 1005 Grand Boulevard, Suite 600, Kansas City, MO 64106. | Richard Halliburton, 816–474–6750 .. | 7 | *169,780 |
| Disabilty Law Center, 455 East 400 South # 410, Salt Lake City, UT 84111 | Fraser Nelson, 801–363–1347 ..... | 8 | 200,000 |
| Idaho Legal Aid Services, Inc., 310 North 5th, P.O. Box 913, Boise, ID 83701. | Ernesto Sanchez, 208–336–8980 ..... | 10 | 198,500 |

*Partial funding amounts reflect an amount less than applicant requested. If additional funds become available, award amount may be increased.

[FR Doc. 98–4178 Filed 2–18–98; 8:45 am]
BILLING CODE 4210–28–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4235–N–02]**

## Privacy Act of 1974: Proposed Amendment to Two Systems of Records

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notification of a proposed amendment to two existing systems of records.

**SUMMARY:** In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), HUD is issuing notice of the Department's intention to amend the following Privacy Act systems of records: HUD/Dept–28, Property Improvement and Manufactured (Mobile) Home Loans–Default and HUD/DEPT–2, Accounting Records. A new routine use disclosure will be added to both systems of records. The new routine use disclosure is necessary to accommodate the Department of Treasury cross servicing or for some other Federal agency designated by Treasury to perform the necessary routine debt collection tasks.

**DATES:** *Comments Due Date:* Persons wishing to comment on the proposed routine use must do so by March 23, 1998.

**EFFECTIVE DATE:** These amendments will be effective March 23, 1998, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:**

Jeanette Smith, Privacy Act Officer, Telephone Number (202) 708–2374 [This is not a toll-free number] or Fax Number (202) 708–3577.

**SUPPLEMENTARY INFORMATION:** HUD/Dept–2 and HUD/Dept–28 are being amended to allow for the release of information pertaining to delinquent accounts to the Department of Treasury or to other Federal agencies designated by the Department of Treasury for the purpose of debt collection. The new routine use will read as follows: To other Federal agencies for the purpose of debt collection.

Accordingly, HUD/Dept–28 and HUD/Dept–2 system notices originally published in the ''Federal Register Privacy Act Issuances,'' 1995/compilation are further amended by the addition of the new routine use disclosure below.

A report of HUD's intention to add a new routine use disclosure has been submitted to the Office of Management and Budget (OMB), The Senate Committee on Governmental Affairs, and the House Committee on Government and Oversight pursuant to paragraph 4 of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' February 8, 1996.

**Authority:** 5 U.S.C. 552a, 88 Stat. 1896; (42 U.S.C. 3535(d)).

Dated: February 12, 1998.

**David S. Cristy,**

*Director, Information Resources Management Policy and Management Division.*

**HUD/DEPT–28**

**SYSTEM NAME:** Property Improvement and Manufactured (Mobile) Home Loans–Default.

* * * * *

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, other routine uses are as follows:

(a) To the Department of Justice for prosecution of fraud in the course of claims collection efforts and for the institution of suit or other proceedings to effect collection of claims.

(b) To the FBI to investigate possible fraud revealed in the course of claims collection efforts.

(c) General Accounting Office for audit purposes.

(d) Private employers and Federal agencies to facilitate collection of claims against employees.

(e) Office of Personnel Management for offsetting retirement payments.

(f) Consumer reporting and commercial credit agencies to facilitate claims collection consistent with Federal Claims Collection Standards, 4 CFR 102.4.

(g) To financial institutions that originated or serviced loans to give notice of disposition of claims.

(h) To title insurance companies for payment of liens.

(i) To local recording offices for filing assignments of legal documents, satisfactions, etc.

(j) To bankruptcy courts for filing of proofs of claim.

(k) To HUD contractors for debt servicing.

(l) To state motor vehicle agencies and Internal Revenue Service to obtain current addresses of debtors.

(m) To prospective purchasers—for sale of mortgages, loans, or insurance premiums or charges.

(n) To other Federal agencies—for the purpose of debt collection.

**HUD/DEPT–2**

**SYSTEM NAME:**

Accounting Records.

* * * * *

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, other routine uses are as follows:

(a) To the U.S. Treasury—for disbursements and adjustments thereof.

(b) To the Internal Revenue Service—for reporting of sales commissions and for reporting of discharge indebtedness.

(c) To the General Accounting Office, General Services Administration, Department of Labor, Labor housing authorities, and taxing authorities—for audit, accounting and financial reference purposes.

(d) To mortgage lenders—for accounting and financial reference purposes, for verifying information provided by new loan applicants and evaluating creditworthiness.

(e) To HUD contractors—for debt and/or mortgage note servicing.

(f) To financial institutions that originated or serviced loans—to give notice of disposition of claims.

(g) To title insurance companies—for payment of liens.

(h) To local recording offices—for filing assignments of legal documents, satisfactions, etc.

(i) To the Defense Manpower Data Center (DMDC) of the Department of Defense and the U.S. Postal Service to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by HUD in order to collect the debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, or by administrative or salary offset procedures.

(j) To any other Federal agency for the purpose of effecting administrative or salary offset procedures against a person employed by the agency or receiving or eligible to receive some benefit payments from the agency when HUD as a creditor has a claim against that person.

(k) With other agencies; such as, Departments of Agriculture, Education, Justice and Veteran Affairs, and the Small Business Administration—for use of HUD's Credit Alert Interactive Voice Response System (CAIVRS) to prescreen applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government.

(l) To the Internal Revenue Service by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by HUD against the taxpayer pursuant to 26 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 3711, 3217, and 3718.

(m) To a credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file on an individual for use in the administration of debt collection.

(n) To the U.S. General Accounting Office (GAO), Department of Justice, United States Attorney, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

(o) To a debt collection agency for the purpose of collection services to recover monies owned to the U.S. Government under certain programs or services administered by HUD.

(p) To any other Federal agency including, but not limited to the Internal Revenue Service (IRS) pursuant to 31 U.S.C. 3720A, for the purpose of effecting an administrative offset against the debtor for a delinquent debt owned to the U.S. Government by the debtor.

(q) To the Resolution Trust Corporation—to prescreen potential contractors for bad debts prior to acquiring their services.

(r) To other Federal Agencies—for the purpose of debt collection.

[FR Doc. 98–4179 Filed 2–18–98; 8:45 am]

**BILLING CODE 4210–01–M**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Notice of Availability of the Revised Draft Environmental Impact Statement for Development of the Palau Compact Road, Babeldaob Island, Republic of Palau

**AGENCY:** Office of the Secretary, Department of the Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of the Interior Announces that the revised Draft Environmental Impact Statement (EIS) for development of the Palau Compact Road, Babeldaob, Island, Republic of Palau is available for public review and comment.

**DATES:** The Office of the Secretary will consider written information and commments on the Draft Environmental Impact Statement received by [April 6, 1998].

**ADDRESSES:** Comments on the Draft EIS should be submitted to Mr. Allen Chin, CEPOH–ED–E, U.S. Army Engineer District, Honolulu, Fort Shafter, HI 96858–5440. A limited number of copies of the document may be obtained by writing to the above address or by calling 808–438–6974.

**FOR FURTHER INFORMATION CONTACT:** Mr. Allen Chin, CEPOH–ED–E, U.S. Army Engineer District, Honolulu, Fort Shafter, HI 96858–5440, telephone (808) 438–6974.

**SUPPLEMENTARY INFORMATION:** The proponent for the Proposed Action is the United States Department of the Interior as program manager and on behalf of the United States of America.

The Compact of Free Association (Compact) with the Republic of Palau (ROP), which became effective on October 1, 1994, requires the United States Government (USG) to provide a road system to the people of Palau in order to assist the ROP to advance the economic development and self-sufficiency of the Palau people. To fulfill this statutory and treaty requirement, the USG and the ROP are cooperating to construct a major road system on the island of Babeldaob in accordance with Section 212(a) of the Compact of Free Association and as implemented by certain nation-to-nation agreements.

The Department of the Interior published a Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS) in the **Federal Register** on March 7, 1996. Scoping meetings were held for governmental agencies and the public on April 24, 1996. The Notice of Availability of the DEIS was announced in the Federal Register in May 1997. A public hearing to present the DEIS was held on May 21, 1997 in Palau. Subsequent to the preparation of the DEIS, additional studies were conducted on impacts of quarrying for the project as well as dredging plans by the local states. The DEIS was revised to incorporate the results of these studies and to address public and agency comments on the original DEIS. After receipt of comments on the revised DEIS, a Final EIS will be prepared.

The Proposed Action calls for construction of a safe, high-quality, all-weather, two-lane vehicular road system on the island of Babeldaob. This roadway has been configured as a loop system with a northern spur to serve as a direct transportation and communication link between the 10 states on Babeldaob Island. Additionally, the road would provide access through, or be near known areas having potential for agriculture, forestry, mining and quarrying, industry and tourism, and water resource and port development. It would also provide a land-based transportation corridor to and from the proposed site of the Republic of Palau's new capital in Melekeok State.

The selection of a Proposed Action in this revised DEIS does not constitute a final decision. The Final EIS, as modified by all previous comments, will be used by the Department of the Interior in reaching a final decision and developing a final array of measures to avoid, reduce, or mitigate adverse impacts. The Record of Decision will be approved at least 30 days after publication of the Final EIS to allow for public review and comment.

Copies of the revised DEIS are also available for inspection at the following locations: Republic of Palau Ministry of Resources and Development, Palau Environmental Quality Protection Board, and the U.S. Army Corps of Engineers Palau Compact Road Field Office, on the third floor of the WCTC Building in Koror.

Dated: February 12, 1998.

**Willie R. Taylor,**

*Director, Office of Environmental Police and Compliance, Department of the Interior.*

[FR Doc. 98–4190 Filed 2–18–98; 8:45 am]

**BILLING CODE 4310–RK–M**

## DEPARTMENT OF THE INTERIOR

### Geological Survey

### Technology Transfer Act of 1986

**AGENCY:** U.S. Geological Survey, Interior.

**ACTION:** Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiations.

**SUMMARY:** The United States Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with Sedona GeoServices, Inc., Limerick, Pennsylvania. The purpose of the CRADA is to jointly research and develop new algorithms and advanced methods of automatic contour vectorization. Any other organization interested in pursuing the possibility of a CRADA for similar kinds of activities should contact the USGS.

**ADDRESSES:** Inquiries may be addressed to the Acting Chief of Research, U.S. Geological Survey, National Mapping Division, 500 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192; Telephone (703) 648–4643, facsimile (703) 648–4706; Internet ''ebrunson@usgs.gov''.

**FOR FURTHER INFORMATION CONTACT:** Ernest B. Brunson, address above.

**SUPPLEMENTARY INFORMATION:** This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: February 3, 1998.

**Richard E. Witmer,**

*Chief, National Mapping Division.*

[FR Doc. 98–4122 Filed 2–18–98; 8:45 am]

**BILLING CODE 4310–Y7–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Proclamation of Certain Lands as Part of the Reservation of the Pueblo of Acoma (Los Cerritos Tracts); Correction

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of reservation proclamation; correction.

**SUMMARY:** This notice corrects **Federal Register** Notice, 53 FR 37357–37358, ''Proclamation of Certain Lands as Part of the Reservation of the Pueblo of Acoma,'' published on September 1, 1988. Parcels A, C, and E are corrected.

**FOR FURTHER INFORMATION CONTACT:** Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

**SUPPLEMENTARY INFORMATION:** On September 1, 1988, by proclamation issued pursuant to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), land was proclaimed to be an addition to and made a part of the reservation of the Pueblo of Acoma Indian Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership. A notice of reservation proclamation was published in the **Federal Register** on September 26, 1988 (53 FR 37357–37358). The following descriptions correct Parcels A, C, and E of said notice:

**Cibola County, New Mexico**

*Parcel A*

A tract of land situated in Section 22, T. 10 N., R. 7 W., N.M.P.M., within the Cubero Land Grant, Cibola County, New Mexico, more particularly described as follows:

From the point of beginning, being the northeast corner of said tract, the northeast corner of Section 22, a marked stone, bears N. 39°26′53″ E. and is 898.76 feet distant; then from said point of beginning, S. 4°10′04″ E. and 2,345.20 feet along the westerly right-of-way of Road #32 of Acomita; then N. 88°15′15″ W. and 208.69 feet; then S. 4°25′33″ E. and 205.78 feet; then S. 88°03′59″ E. and 207.83 feet to a point on said westerly right-of-way; then S. 4°10′04″ E. and 267.96 feet along said right of way; then along a curve of radius 1,481.49 feet and to the left, an arc distance of 357.66 feet, along said right-of-way; then S. 18°00′00″ E. and 19.72 feet along said right-of-way; then along a curve of radius 1,360.58 feet and to the right, an arc distance of 484.64 feet along said right-of-way; then S. 2°24′32″ W. and 276.69 feet along said right-of-way and to a point on the northerly right-of-way of Interstate 40; then S. 85°49′34″ W. and 505.09 feet along said northerly right-of-way of I–40; then N. 20°14′18″ E. and 99.53 feet; then N. 76°34′51″ W. and 602.94 feet; then N. 0°26′22″ E. and 429.94 feet; then N. 76°28′46″ W. and 1,912.87 feet; then N. 0°33′10″ E. and 2,723.09 feet to a point on the southerly right-of-way of U.S. Highway 66; then N. 86°53′51″ E. and 2,556.47 feet to the point and place of beginning, and containing an area of 203.6223 acres more or less.

*Parcel C*

A tract of land situated within the northeast quarter of Section 27, T. 10 N., R. 7 W., N.M.P.M., Cibola County, New Mexico, and being more particularly described as follows:

From the point of beginning, being the southwest corner of said tract, the one mile post on the North boundary of the Acoma Pueblo Grant bears N. 84°41′41″ W., and is 1,258.48 feet distant. Then from the above said point of beginning, N. 00°10′19″ E., 635.28 feet; then S. 89°55′29″ E., 439.48 feet; then along the westerly right-of-way line of Road #32 to Acomita, along a curve of radius 2,823.99 feet an arc length of 702.18 feet; then N. 84°41′41″ W. a distance of 185.37 feet to the point and place of beginning, and containing an area of 4.6909 acres, more or less.

*Parcel E*

A tract of land situated in the Southeast quarter of Section 22 and the Southwest quarter of Section 23, T. 10 N., R. 7 W., N.M.P.M., within the Cubero Land Grant, Cibola County, New Mexico, and being more particularly described as follows:

From the point of beginning, the Northwest corner of Section 23, a marked stone, bears

N. 8° 36′21″ W. and is 3,707.25 feet distant; then from said point of beginning S. 0°20′23″ W. and 1,065.78 feet to a point on the northerly right-of-way of Interstate 40; then N. 82°00′23″ W. and 713.10 feet along said right-of-way to a point on the easterly right-of-way of Road #32 to Acomita; then N. 2°24′32″ E. and 276.36 feet along said easterly right-of-way; then along a curve of radius 1,440.58 feet and to the left, an arc distance of 513.14 feet, along said right-of-way; then N. 18° 00′ 00″ W. and 19.72 feet along said right-of-way; then along a curve of radius 1,401.49 feet and to the right, an arc distance of 173.84 feet, along said right-of-way; then S. 89° 50′ 39″ E. and 819.55 feet to the point and place of beginning, and containing an area of 16.9816 acres, more or less.

Title to the land described above is conveyed subject to any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other right-of-way or reservation of record.

Dated: February 11, 1998.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 98–4103 Filed 2–18–98; 8:45 am]

BILLING CODE 4310–02–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NM–030–1210–00]**

### Emergency Closure of Vehicle Trails In and Near the Robledo Mountains Wilderness Study Area (WSA), Robledo Mountains Area of Critical Environmental Concern (ACEC), and the Paleozoic Trackways Research Natural Area (RNA) in Dona Ana County, New Mexico

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Emergency closure of vehicle trails.

**SUMMARY:** Notice is hereby given that effective immediately, the Las Cruces District is implementing emergency closure of existing vehicle trails to use by any motorized vehicle or equipment. The closures are implemented in order to prevent further resource degradation and protect the values of the Robledo Mountains WSA and ACEC, and the Paleozoic Trackways RNA. The authority for this emergency closure is 43 CFR 8364.1: Closure and Restriction Orders. The vehicle trails are located within the following public land:

**Robledo Mountains WSA and ACEC**

T. 22 S., R. 1 E., NMPM
Secs. 6, 7, 8, 17, and 18.
T. 22 S., R. 1 W.,
Secs. 3, 9, 10, 11, 12, 13, and 14.

**Paleozoic Trackways RNA**

T. 22 S., R. 1 E., NMPM
Sec. 19, All.
T. 22 S., R. 1 E., NMPM
Sec. 20, All.

The subject vehicle trails are further described as follows:

1. Trails, including branches and side trails, known as the Wolf Trail and the Guardian Trail, beginning at a common point in S½SW¼, Sec. 20, T. 22 S., R. 1 E., NMPM, and traversing northwest to a common exit point in SE¼SE¼, Sec. 14, T. 22 S., R. 1 W., NMPM. These routes total approximately 6 miles.

2. Trails in the upper Indian Springs Canyon drainage in the western portion of the Robledo Mountains WSA/ACEC. One of these trails begins in SE¼, Sec. 10, T. 22 S., R. 1 W., NMPM, near the WSA boundary and runs north through Sec. 10 to SE¼, Sec. 3 on the Skyline Trail. The other trail begins on the west side of the Skyline Trail in SE¼, Sec. 3, T. 22 S., R. 1 W., NMPM, and south through Secs. 3 and 10, and west through Secs. 9 and 10 to the WSA boundary in the bottom of Indian Springs Canyon. These trails total approximately 3 miles.

**DATES:** This closure is effective February 18, 1998 and shall remain in effect until rescinded or modified by the Authorized Officer.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Hargrove, Mimbres Resource Area Manager, or Mark Hakkila, Outdoor Recreation Planner, 1800 Marquess, Las Cruces, NM 88005; or call (505) 525–4300.

**SUPPLEMENTARY INFORMATION:** Violations of this closure are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 1 year. The action taken is to prevent impacts to wilderness values, soils, native vegetative resources, wildlife habitat, cultural resources, and scenic values.

Copies of the closure order and maps showing the location of the routes are available from the Las Cruces District Office, Mimbres Resource Area, 1800 Marquess, Las Cruces NM 88005.

Dated: February 12, 1998.

**Linda S. C. Rundell,**

*District Manager.*

[FR Doc. 98–4139 Filed 2–18–98; 8:45 am]

BILLING CODE 4310–VC–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NV–020–1430–10]**

### Notice of Availability of Plan Amendment and Public Meetings; Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Land Management, Winnemucca Field Office, has completed an Environmental Assessment/Proposed Plan Amendment to the Paradise-Denio and Sonoma-Gerlach Management Framework Plans (MFPs). The proposed plan amendments reflect changes in management policy and guidelines, over the past 16 years. Public meetings to comment on the document will be held on March 3, 1998 from 7:00PM to 9:00PM at the Airport Plaza Hotel, 1981 Terminal Way, Reno, Nevada, and on March 4, 1998 from 7:00PM to 9:00PM at the Bureau of Land Management, Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, Nevada.

**DATES:** The comment period for the Environmental Assessment/Proposed Plan Amendments will begin with the date of publication of this notice and last 30 days.

**ADDRESSES:** Written comments must be submitted to the District Manager, Bureau of Land Management, Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, Nevada 89445, within 30 days after the date of publication of this Notice of Availability.

**FOR FURTHER INFORMATION CONTACT:** Mary Figarelle, Realty Specialist, Winnemucca District Office, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445, (702) 623–1500.

Copies of the Environmental Assessment and Proposed Plan Amendments are available for review at the Winnemucca District Office.

Dated: February 11, 1998.

**Michael R. Holbert,**

*Associate District Manager.*

[FR Doc. 98–4189 Filed 2–18–98; 8:45 am]

BILLING CODE 4310–HC–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–958–0777–63; GP7–0017; OR–19637 (WA)]**

### Public Land Order No. 7311; Revocation of Secretarial Order Dated June 5, 1924; Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes in its entirety a Secretarial order which withdrew 4,800 acres of National Forest System lands for the Bureau of Land Management's Powersite Classification No. 77. The lands are no longer needed for the purpose for which they were withdrawn. This action will open the lands to surface entry. The lands have been and will remain open to mining and mineral leasing.

**EFFECTIVE DATE:** March 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated June 5, 1924, which established Powersite Classification No. 77, is hereby revoked in its entirety:

**Willamette Meridian**

*Snoqualmie National Forest*

T. 18 N., R. 9 E., unsurveyed
Secs. 3, 4, 5, 8, 9, secs. 16 to 21, inclusive, and secs. 29 to 32, inclusive, every smallest legal subdivision any portion of which, when surveyed, will be within ½ mile of West Fork White River.

The areas described aggregate approximately 4,800 acres in Pierce County.

2. At 8:30 a.m. on March 23, 1998, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: February 4, 1998.

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

[FR Doc. 98–4121 Filed 2–18–98; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF JUSTICE

### International Competition Policy Advisory Committee (ICPAC); Notice of Meeting

**AGENCY:** Department of Justice.

**SUMMARY:** The International Competition Policy Advisory Committee (the ''Committee'') will hold its first meeting on February 26, 1998. The Committee was established by the Department of Justice to provide advice regarding issues relating to international trade and competition policy. Specifically, the Committee will provide advice regarding how best to cooperate with foreign authorities to eliminate international anticompetitive cartel agreements, how best to coordinate United States' and foreign antitrust enforcement efforts in the review of multinational mergers, and how best to coordinate United States' trade and competition policy to achieve their common objectives. The meeting will be held at The Carlton Hotel, 16th & K Streets, N.W., Washington, DC 20006, and will begin at 9:00 a.m. EST and end at approximately 3:45 p.m. The agenda for the meeting will be as follows:

1. Overview of International Involvement
2. Enforcement Against International Cartels
3. International Merger Review
4. Trade and Competition Interface
5. Work Program: Next Steps

The public is being given less than 15 days notice of this meeting because of exceptional difficulties encountered in finding a meeting date mutually acceptable to all members of the Committee.

Attendance is open to the interested public, limited by the availability of space. Persons needing special assistance, such as sign language interpretation or other special accommodations, should notify the contact person listed below as soon as possible. Members of the public may submit written statements by mail, electronic mail, or facsimile at any time before or after the meeting to the contact person listed below for consideration by the Committee. All written submissions will be included in the public record of the Committee. Oral statements from the public will not be solicited or accepted at this meeting. For further information contact: Merit Janow, c/o Gerald M. DiGiusto, U.S. Department of Justice, Antitrust Division—Foreign Commerce Section, 601 D Street, N.W., Room 10024, Washington, DC 20530, Telephone: (202) 514–2439, Facsimile: (202) 514–4508, Electronic mail: icpac@usdoj.gov.

**Merit E. Janow,**

*Executive Director, International Competition Policy Advisory Committee.*

[FR Doc. 98–4338 Filed 2–17–98; 12:21 pm]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Notice of Consent Judgments Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed Consent Decree *United States* v. *Agway, Inc., et al.,* DOJ #90–11–2–2A, was lodged in the United States District Court for the Northern District of New York on January 22, 1998. The Consent Decree resolves the liability of eighty parties (''Settling Defendants'') and the United States (on behalf of the U.S. Air Force and the Veterans Administration) under Sections 106(a) and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9606(a) and 9607(a), relating to the Pollution Abatement Services Superfund Site in Oswego, New York (the ''Site'').

Under the proposed Consent Decree, the Settling Defendants agree to reimburse the United States $1,050,261.97 in past response costs incurred from April 2, 1987 to May 6, 1997, to perform future work at the Site under the 1993 Record of Decision (''1993 ROD'') at an estimated cost of $5 million, and to reimburse the United States for its first $500,000 in future response costs. Approximately 68 of the Settling Defendants, along with the settling federal agencies, will receive *de minimis* settlements under this Decree in exchange for payments toward Site costs. The remaining Settling Defendants will perform the future work under the 1993 ROD and will partially reimburse the United States' past and future costs. The United States has reserved its rights against certain parties who sent polychlorinated bi-phenols (''PCBs'') to the Site in the event that a PCB related remedy is necessary.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C.

20530, and should refer to *United States* v. *Agway, Inc. et al.*, Civ. No. 98–CV–0112 (N.P.M), DOJ #90–11–2–2A.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of New York, James Foley U.S. Courthouse, 45 Broadway, room 231, Albany, New York 12207; at the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $71.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

**Joel M. Gross,**

*Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 98–4130 Filed 2–18–98; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Consent Decrees Under the Clean Water Act and Resource Conservation and Recovery Act

Notice is hereby given that a consent decree in *United States* v. *ASARCO, Inc.*, Civil Action No. CV–98–3–H–CCL (D. Mont.) and a consent decree in *United States* v. *ASARCO, Inc.*, Civil Action No. CV–98–0137–PHX–ROS (D. Ariz.) were lodged with the United States District Courts for the District of Montana and District of Arizona respectively on January 23, 1998.

In these actions the United States sought injunctive relief and civil penalties under Section 309 (b) and (d) of the Clean Water Act (''CWA''), 33 U.S.C. 1319 (b) and (d), and Section 3008(a) of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6928(a). The consent decree lodged in the District of Montana (''Montana decree'') resolves civil penalty claims of the United States against ASARCO, Inc. (''ASARCO'') under the CWA for alleged unpermitted discharges at ASARCO's smelter facility in East Helena, Montana. The Montana decree also resolves civil penalty and injunctive relief claims of the United States against ASARCO under RCRA for alleged violations of hazardous waste regulations associated with materials acceptance and management practices at ASARCO's East Helena smelter facility. The decree lodged in the District of Arizona (''Arizona decree'') resolves injunctive relief and civil penalty claims of the United States against ASARCO under the CWA for alleged permit violations and unpermitted discharges at ASARCO's Ray Mine complex located near Kearny, Arizona.

The Montana decree requires ASARCO to: institute improved materials screening and management procedures at each of its four smelters nationwide; perform a comprehensive RCRA corrective action investigation and, as appropriate, remediation at ASARCO's East Helena smelter facility; implement an improved environmental management system nationwide; and, pay a civil penalty to the United States of $3,386,100 and perform a wetlands restoration project at ASARCO's East Helena smelter facility for alleged past violations of the CWA and RCRA at that facility.

The Arizona decree requires ASARCO to: Perform construction projects to address alleged permit violations and unpermitted discharges at ASARCO's Ray Mine complex; and, pay civil penalties to the United States and State of Arizona totaling $3 million for alleged past violations of the CWA at ASARCO's Ray Mine complex.

The Department of Justice will accept written comments relating to the proposed consent decrees for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *ASARCO, Inc.* (D.Mt.), DJ Ref. #s: 90–5–1–1–4323, 90–7–1–890 and 90–7–1–886, and/or, *United States* v *ASARCO, Inc.* (D. Az.), DJ Ref. #s: 90–5–1–1–3822 and 90–7–1–886.

Copies of the proposed Montana decree may be examined at the Office of the United States Attorney, Suite 400, 2929 3rd Avenue, N., Billings, Montana, 59103; at the U.S. Environmental Protection Agency, Montana Operations Office, Federal Building, 301 South Park Street, Helena, Montana 59626; and, at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Denver, Colorado 80202. Copies of the proposed Arizona decree may be examined at the Office of the United States Attorney, 1275 West Washington, Phoenix, Arizona 85007; and, at the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California, 94105.

Copies of both proposed consent decrees may be examined at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the consent decrees may also be obtained in person or by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. When requesting a copy of the Montana decree by mail, please enclose a check in the amount of $44.75 for a copy including exhibits, or $28.00 for a copy excluding exhibits (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.'' When requesting a copy of the Arizona decree by mail, please enclose a check in the amount of $29.00 for a copy including exhibits, or $9.00 for a copy excluding exhibits (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

**Joel M. Gross,**

*Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.*

[FR Doc. 98–4209 Filed 2–18–98; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Block Island Power Company, Inc.*, Civil Action No. 98–045–ML was lodged on January 28, 1998, in the United States District Court for the District of Rhode Island. The consent decree settles an action commenced in a complaint filed January 28, 1998, under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, arising out of operations at the Block Island Power Company, Inc. (''BIPCO'') facility on Block Island in the State of Rhode Island. BIPCO generates and sells electricity to the residents of Block Island through the use of diesel generators. The air pollutants emitted by the diesel generators include nitrogen oxides (''$NO_X$''). $NO_X$ is an ozone precursor which means that, once emitted, it is transformed in the atmosphere through reaction with volatile organic compounds into ground-level ozone or ''smog.''

The complaint alleges that BIPCO failed to obtain a permit prior to installation of eight diesel generators as required by Prevention of Significant Deterioration and Non-Attainment New Source Review requirements of the Clean Air Act, EPA regulations, and the State of Rhode Island State Implementation Plan. The complaint also alleges violations of the acid rain provisions of the Clean Air Act.

Under the consent decree, BIPCO will pay a civil penalty to the United States of $90,000. BIPCO will also install an underwater cable to supply electricity to Block Island residents in lieu of operating the company's diesel generators. This will have the effect of eliminating emissions from BIPCO's facility. Installation of the cable was approved by the State of Rhode Island Public Utility Commission, after a public hearing, in a written order issued on August 22, 1997. BIPCO will permit any remaining generators as emergency back-up engines which will not require New Source Review permits. If BIPCO fails to install the cable in accordance with the consent decree, BIPCO will be required to comply with the New Source Review requirements including installation of pollution control equipment reducing emissions from the diesel generators to the Lowest Achievable Emission Rate and obtaining any necessary offsetting emission reductions. The consent decree also requires BIPCO to comply with the acid rain provisions of the Clean Air Act by either obtaining a regulatory exemption or installing, certifying, and operating monitoring systems as required by 40 CFR parts 72 and 75.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Block Island Power Company, Inc.*, DOJ Ref #90–5–1–2021.

The proposed consent decree may be examined at the office of the United States Attorney, Westminster Square Building, 10 Dorrance Street, 10th Floor, Providence, Rhode Island, 02903; the Region I Office of the Environmental Protection Agency, J.F. Kennedy Federal Building, Boston, Massachusetts, 02203–2211; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check made payable to the Consent Decree Library in the amount of $9.50 (25 cents per page reproduction costs).

**Joel M. Gross,**

*Section Chief Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 98–4128 Filed 2–18–98; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

In accordance with Department of Justice policy, notice is hereby given that on January 29, 1998, a proposed Consent Decree in *United States* v. *Cowles Media Company et al,,* Civil No. 4–96–958, was lodged in the United States District Court for the District of Minnesota. The Complaint filed by the United States sought to recover costs incurred by the United States pursuant to CERCLA, 42 U.S.C. 9601 *et seq.* The Consent Decree requires Defendants Northern States Power Company and Cowles Media Company to reimburse the United States in the amount of $450.000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Cowles Media Company, et al.*, D.J. Ref. No. 90–11–2–1099.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the District of Minnesota, 234 United States Courthouse, 110 S. 4th Street, Minneapolis, MN 55401 (contact Assistant United States Attorney Friedrich Siekert); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Elizabeth Murphy); and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, telephone (202) 624–0892. For a copy of the Consent Decree please enclose a check in the amount of $5.25 (25 cents per page reproduction costs) payable to Consent Decree Library.

**Joel M. Gross,**

*Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 98–4127 Filed 2–18–98; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

In accordance with Departmental policy, notice is hereby given that a proposed consent decree in *United States* v. *FAG Bearings Corp*., Civil Action No. 98–5003–CV–SW–1, was lodged on January 21, 1998, with the United States District Court for the Western District of Missouri. The consent decree resolves the claims for relief under Section 107 of CERCLA, 42 U.S.C. 9607, filed in a complaint against FAG Bearings Corporation (''FAG Bearings'') on behalf of the United States Environmental Protection Agency (''EPA''). EPA is seeking payment of costs incurred in performing response activities at the Newton County TCE Site (''Site'').

Defendant FAG Bearings owns and operates a facility from which there has been a release of TCE. From about 1970 to 1983, FAG Bearings manufactured roller ball bearings assemblies such as wheel bearing assemblies for the automotive industry. The Site is located in the southwestern part of Missouri, just south of Joplin, Missouri and contains the FAG Bearings facility. A plume of groundwater contaminated with TCE extends south of the FAG Bearings facility and into the nearby Villages of Silver Creek and Saginaw, Missouri. This action is based on costs totaling $266,280.56 incurred for a removal action to provide bottled water to residents at the Site with TCE contamination in their private drinking water wells.

Under the proposed consent decree, FAG Bearings will reimburse the EPA Hazardous Substance Superfund $266,280.56—100% of EPA's past costs—plus an additional sum for Interest. In exchange, FAG Bearings will receive a covenant not to sue pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), for response costs incurred by EPA at the Site. In addition, FAG Bearings will receive contribution protection under Section

113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2).

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and refer to *United States* v. *FAG Bearings Corp*., DOJ Ref. 90–11–3–1760.

Copies of the proposed consent decree may be examined at the Office of the United States Attorney, 1201 Walnut Street, Suite 2300, Kansas City, Missouri; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained by mail or in person from the Consent Decree Library. When requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $4.75 (25 cents per page reproduction costs) payable to the ''Consent Decree Library.''

**Joel M. Gross,**

*Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 98–4208 Filed 2–18–98; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive, Environmental Response, Compensation and Liability Act (''CERCLA'')

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Hillsborough County, Florida, et al.* (M.D. Fl.) Civil Action No. 98–239–CIV–T–25F, was lodged on February 4, 1998, with the United States District Court for the Middle District of Florida.

In this action the United States sought injunctive relief and recovery of response costs under Sections 106(a) and 107 of CERCLA, 42 U.S.C. 9606(a) and 9607, with respect to the Taylor Road Landfill Superfund Site in Hillsborough County, Florida (''the Site'') which is the location of a solid waste landfill utilized from May 1976 until February 1980.

Under a proposed Consent Decree, Hillsborough County, the past and present owner and operator of the Site, and a group of settlors which arranged for the disposal of hazardous substances at the site, have agreed to perform the remedy chosen by EPA to clean up the Site, pay all of the government's future response costs, and pay over 75 percent of the government's remaining past response costs, incurred or to be incurred for response activities at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Hillsborough County, Florida, et al.* (M.D. Fl.) and DOJ #90–11–3–1614.

The proposed consent decree may be examined at the office of the United States Attorney, 500 Zack Street, Room 400, Tampa, Florida 33602; the Region 4 Office of the Environmental Protection Agency, 61 Forsythe Street, Atlanta, Georgia 30303, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $54.75 (25 cents per page reproduction costs), payable to the Consent Decree Library. In requesting a copy exclusive of exhibits, please enclose a check for $31.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

**Joel M. Gross,**

*Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 98–4210 Filed 2–18–98; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and Section 122 of CERCLA, 42 U.S.C. 9622, notice is hereby given that on February 5, 1998, a proposed *De Minimis* Consent Decree in *United States* v. *Imlay City, et al.*, Civil Action No. 98–70520, was lodged with the United States District Court for the Eastern District of Michigan, Southern Division. This consent decree represents a settlement of claims of the United States against Imlay City, Lapeer County Road Commission, Oxford Township, Village of Dryden, Village of Leonard, Addison Township, Village of Oxford, Village of Metamora, Lapeer Intermediate School District, a/k/a Lapeer Vocational Technical Institute, for reimbursement of response costs and injunctive relief in connection with the Metamora Landfill Superfund Site (''Site'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*

Under this settlement with the United States, Imlay City, Lapeer County Road Commission, Oxford Township, Village of Dryden, Village of Leonard, Addison Township, and Village of Oxford, will pay $2,616, the Village of Metamora will pay $7,358, and Lapeer Intermediate School, a/k/a Lapeer Vocational Technical Institute will pay $1,219, in reimbursement of response costs incurred by the Environmental Protection Agency at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Imlay City, et al.*, D.J. Ref. 90–11–3–289M.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, Southern Division, 211 West Fort Street, Suite 2300, Detroit, MI 48226, at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $7.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

**Bruce Gelber,**

*Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 98–4123 Filed 2–18–98; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Settlement Agreement

Notice is hereby given that on February 2, 1998, a proposed Settlement

Agreement in *In re: McLouth Steel Products Corporation,* was lodged with the United States District Court for the Eastern District of Michigan. This Settlement Agreement resolves the United States' proof of claim filed against McLouth Steel Products Corporation (''McLouth Steel''), for its liabilities pursuant to several environmental statutes, and regulations enacted pursuant thereto, including the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.*, the Clean Air Act (CAA), 42 U.S.C. 7401 *et seq.*, the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.*, the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 *et seq.*, and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.* McLouth Steel owned and operated two steel manufacturing and processing plants that are located in the cities of Trenton and Gibraltar in Wayne County, Michigan.

Pursuant to the Settlement Agreement, McLouth Steel consents and stipulates to U.S. EPA having allowed general unsecured claims in the following amounts: CWA—$1,124,000, CAA—$45,303, TSCA—$183,000. In the Agreement, McLouth Steel also stipulates to reserving an amount for U.S. EPA's RCRA and CERCLA claims filed against McLouth Steel pending the completion of certain response actions currently underway at McLouth Steel's facility. The amount of the reserve will be based on an allowed administrative expense claim of $2.8 million and an allowed general unsecured claim of $2.8 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer in *In re: McLouth Steel Products Corporation,* D.J. Ref. 90–5–1–1–4144A. Commenters may request an opportunity for public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Settlement Agreement may be examined at the Office of the United States Attorney, District of Michigan, 211 West Fort Street, Suite 2300, Detroit, MI 48226–3211, at the Region V Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Settlement Aereement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting copy, please enclose a check in the amount of $26.75 (25 cents per page production cost) payable to the Consent Decree Library.

**Joel Gross,**

*Chief, Environmental Enforcement Section, Environmental Natural Resources Division.*

[FR Doc. 98–4131 Filed 2–18–98; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department of Justice policy and 28 CFR 50.7, notice is hereby given that on January 28, 1998, a proposed Consent Decree in *United States and The State of Indiana* v. *City of North Vernon,* Cause No. NA 96–34–C (D/H), was lodged in the United States District Court for the Southern District of Indiana. The Complaint filed by the United States and the State of Indiana alleged claims under Section 309(b) and (d) of the Clean Water Act (''the Act''), 33 U.S.C. 1319(b) and (d), against the City of North Vernon, Indiana (''North Vernon''), for violations of the terms and conditions of North Vernon's National Pollutant Discharge Elimination System (''NPDES'') permit, and for failing to comply with the terms of two Administrative Orders issued by U.S. EPA. The Consent Decree requires Defendant North Vernon to: (1) Comply with the Act and the terms of its current NPDES permit; (2) implement a Corrective Action Plan designed to assure that North Vernon will achieve and maintain compliance with the Act and the permit; (3) pay the United States $30,000.00 and the State of Indiana $20,000.00 in civil penalties; and (4) implement a Supplemental Environmental Project, with estimated costs to North Vernon of approximately $110,000.00.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States and State of Indiana* v. *City of North Vernon,* D.J. Ref. No. 90–5–1–1–4142.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Southern District of Indiana, 5th Floor, United States Courthouse, 46 East Ohio Street, Indianapolis, IN 46204–1986 (contact Assistant United States Attorney Thomas Kieper); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Timothy Chapman); and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, telephone (202) 624–0892. For a copy of the Consent Decree please enclose a check in the amount of $21.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

**Joel M. Gross,**

*Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 98–4129 Filed 2–18–98; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on August 12, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Asymmetrical Digital Subscriber Line Forum (''ADSL'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies have joined ADSL: Microcom, Norwood, MA; Telstra, Melbourne, Victoria, AUSTRALIA; Cayman Systems, Stoneham, MA; Fujitsu Network Communications, Inc., Richardson, TX; IMB–T.J. Watson Research lab, Hawthorne, NY; Newbridge Networks, Kanata, Ontario, CANADA; Rad Data Communications, Ltd., Tel Aviv, ISRAEL; SMC, Irvine, CA; Xyplex Networks, Santa Clara, CA; and Ascend Communications, Westford, MA.

US West and Cascade Communications have canceled their membership in ADSL.

No other changes have been made in the membership, nature or objectives of ADSL. Membership remains open, and ADSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 1995 (60 Fed. Reg. 38058).

The last notification was filed with the Department on May 15, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 10, 1997 (62 FR 47690).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 98–4124 Filed 2–18–98; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Healthcare Information Technology Enabling Community Care (HITECC)

Notice is hereby given that, on November 14, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Healthcare Information Technology Enabling Community Care (HITECC) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes to the parties to the venture. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following has become a member of HITECC: Lockheed Martin Energy Systems, Oak Ridge, TN.

Membership in HITECC remains open, and HITECC intends to file additional written notification disclosing all changes in membership, if any occur.

On November 27, 1995, HITECC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 8, 1996 (61 FR 15521).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 98–4126 Filed 2–18–98; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–134A (IPACT–I)

Notice is hereby given that, on December 3, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–134a (''IPACT–I'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following has become a new member to the IPACT–I: Aeropharm Technology, Inc., Edison, NJ, a subsidiary of Kos Pharmaceuticals, Inc.

No other changes have been made in either the membership or planned activity of IPACT–I. Membership in this group research project remains open, and IPACT–I intends to file additional written notification disclosing all changes in membership.

On August 7, 1990, IPACT–I filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 6, 1990 (55 FR 36710).

The last notification was filed with the Department on March 6, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 3, 1997 (62 FR 15939).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 98–4125 Filed 2–18–98; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Alliance Agreement for the Conduct of Research Relating to Oxygen Transport Membranes for the Production of Hydrogen and Synthesis Gas

Notice is hereby given that, on November 13, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Praxair, Inc. filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Praxair, Inc., Danbury, CT; BP Chemicals, Inc., Cleveland, OH; Sasol Technology (Pty), Ltd., Johannesburg, REPUBLIC OF SOUTH AFRICA; Den norske stats oljeselskap a.s., Stavanger, NORWAY; and Amoco Production Company, Houston, TX.

The objective of the venture is to develop a new process for converting natural gas to synthesis gas using ceramic membrane technology.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 98–4207 Filed 2–18–98; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 96–6]**

### Townwood Pharmacy; Revocation of Registration

On October 31, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Townwood Pharmacy (Respondent) of Houston, Texas, notifying the pharmacy of an opportunity to show cause as to why DEA should not revoke its DEA Certificate of Registration, AT8866468, and deny any pending applications for renewal of such registration as a retail pharmacy under 21 U.S.C. 823(f), for reason that the pharmacy's continued registration would be inconsistent with

the public interest pursuant to 21 U.S.C. 824(a)(4).

By letter dated November 15, 1995, Respondent, through counsel, timely filed a request for a hearing, and following prehearing procedures, a hearing was held in San Antonio, Texas on October 16, 1996, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, Government counsel submitted proposed findings of fact, conclusions of law and argument. Respondent did not submit any posthearing filing. On November 10, 1997, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her decision, and on December 12, 1997, Judge Bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent is a retail pharmacy located in Houston, Texas. A.B. Hurd, has been a licensed pharmacist for 25 years and has been Respondent's owner and operator for 17 years. In late 1992, DEA received information from the Houston Police Department that Respondent pharmacy had a reputation for diverting controlled substances.

As a result of this information, DEA initiated an investigation of Respondent, which included five undercover visits between December 17, 1992 and July 9, 1993. The purpose of these visits was to determine whether Respondent would dispense controlled substances for no legitimate medical purpose. DEA obtained a total of nine controlled substance prescriptions written by a local Houston orthopedic physician for a Symone Williams to be used in the undercover investigation. Five of these prescriptions were for various quantities of Tylenol #4 with codeine, a Schedule III controlled substance, and four were for various quantities of Valium 10 mg., a Schedule IV controlled substance. However, none of the prescriptions were for an excessive quantity of either drug, given that each undercover visit was made more than a month after the previous visit. The prescriptions did not contain the patient's address or the date of issuance. Four out of the five visits were conducted by an undercover agent posing as Symone Williams and the fifth visit was conducted by an undercover agent posing as Ms. Williams' boyfriend.

On each occasion, the undercover agent had a conversation with Mr. Hurd while he was filling the prescriptions. At least four of these visits were tape recorded and transcripts of these recordings are in evidence in this proceeding. During the course of these visits, the undercover agents made a number of statements to Mr. Hurd in an attempt to indicate to him that the controlled substances were not going to be used for a legitimate medical purpose. For instance, during the first visit, the undercover agent told Mr. Hurd, ''I just tell my doctor to write 'em, I don't tell him anything''; ''I like the brand, 'cause that's what my boyfriend likes''; and ''He's gonna have some alcohol with it anyway.'' During the second visit, the undercover agent told Mr. Hurd, ''Me and my boyfriend used [the controlled substances,] they worked good''; and ''take that with a little bit of Crown,'' referring to alcohol. On another occasion, the agent made the following comments to Mr. Hurd: ''I go back to my doctor and * * * I told him I'm feeling bad, and he just give it to me''; and ''[Y]ep, we'll get high. That's right, some Crown and some Tylenol.'' During several of these visits, the undercover agent posing as Symone Williams kept talking about ''partying'' with Mr. Hurd. Throughout the transcripts of these visits, almost all of Mr. Hurd's comments, especially those in response to the above statements, were unintelligible. Mr. Hurd filled all of the prescriptions presented to him by the undercover agents. The prescriptions for Valium were filled with its generic equivalent diazepam.

Following the undercover visits, the undercover agent telephoned Mr. Hurd on September 27, and October 12, 1993, in an attempt to obtain controlled substances without presenting a prescription. Mr. Hurd did not agree to dispense any more controlled substances to the undercover agent. At the hearing, Mr. Hurd testified that he denied the undercover agent's telephone requests because there were no refills listed on the previously presented prescriptions and the agent had not authorized Mr. Hurd to contact the doctor to request a refill.

Mr. Hurd testified at the hearing before Judge Bittner that he did not recall any of the undercover agent's comments about using the controlled substances with alcohol or sharing them with her boyfriend. In addition, there was testimony that there was music or a television playing in the background during these visits: that the undercover agent and Mr. Hurd were approximately two arms' length apart during the transactions; that the undercover agent was also having conversations with the pharmacy's clerk; and that the undercover agent was not standing directly in front of Mr. Hurd when she was making conversation with him.

In addition, Mr. Hurd testified that he was familiar with the doctor who purportedly issued the prescriptions; that the doctor has a good reputation in the Houston area; and that Respondent pharmacy had never had any problems with the doctor's prescriptions in the past. Mr. Hurd further testified that the prescriptions appeared to be facially valid to him; that the quantities prescribed and the frequency of the prescriptions did not raise suspicions; and that Tylenol # 4 with codeine and Valium are commonly prescribed by orthopedic physicians. He also testified that he cannot determine whether or not a customer has pain and/or anxiety simply from looking at the individual. Mr. Hurd testified that he observed the undercover agent and that she had a professional appearance, her eyes were not red, and her speech was not slurred.

Mr. Hurd testified that he concluded that the prescriptions were valid, and that had he suspected that the prescriptions were invalid, he would not have filled them. Instead, he would have reported the prescriptions to the appropriate authorities and/or called the prescribing physician for verification.

Another area pharmacist testified at the hearing before Judge Bittner on behalf of Respondent. He stated that he has worked as a retail pharmacist in Houston for 27 years and has known Mr. Hurd since 1967. Like Mr. Hurd, this pharmacist testified that he is familiar with the physician who issued the prescriptions used in the undercover operation; that the physician has a good reputation; and that so long as the physician's prescriptions met the legal requirements, he would fill them. This pharmacist also testified that his practice is similar to that of Respondent and that it is not at all unusual for customers to strike up a conversation with him while he is filling a prescription, but that he does not pay too much attention to what a customer

says because his main objective is to fill the prescription. However, the pharmacist conceded on cross-examination that he would be concerned if a customer represented that he was going to take the prescribed controlled substance with alcohol.

After the completion of the undercover investigation, DEA conducted an accountability audit of ten controlled substances at Respondent. The audit covered the period February 26, 1993 to January 25, 1994, and revealed discrepancies for nine of the audited substances. Of particular note, Respondent could not account for 5,363 dosage units of diazepam 10 mg., 1,077 dosage units of hydrocodone 7.5/500, and 6,207 dosage units of APAP with codeine 60 mg. During the course of conducting the audit, it was discovered that Respondent did not maintain copies of 12 prescriptions and 6 purchase invoices. Respondent was nonetheless given credit for these dispensations and purchases by the investigators conducting the audit. Following the audit, the results were discussed with Mr. Hurd and he was given the opportunity to provide any additional records. Mr. Hurd subsequently provided the investigators with copies of additional prescriptions, however the prescriptions did not change the audit results because they were either not for the audited substances or were outside of the audit period. In addition, Mr. Hurd subsequently informed the investigators that he had discovered another bottle of diazepam, which the investigators counted and included in the audit calculations.

At the hearing in this matter, Mr. Hurd indicated that when conducting Respondent's yearly inventory to satisfy state requirements, he estimates the number of Schedule III through V controlled substances on hand. Respondent's February 26, 1993 inventory was used as the initial inventory for DEA's accountability audit.

Following the audit of Respondent, DEA was contacted by an individual who stated that her daughter had a drug problem, was currently in drug rehabilitation, and previously had overdosed approximately four to five times on prescription drugs that she had been getting from an employee of Respondent. DEA investigators later spoke to the daughter who confirmed that she had been getting her supply of controlled substances from Respondent's employee. Both of these individuals provided DEA investigators with a bag of drugs. A DEA investigator testified at the hearing that there were in fact some valid prescriptions for the individual on file at Respondent, but that the individual claimed that she also obtained controlled substances from Respondent without a prescription. The investigator further testified however that the drugs the individual actually presented to DEA had another pharmacy's label on the bottles.

DEA investigators never spoke to Respondent's employee about the individual, however Mr. Hurd testified that he spoke with the employee and the employee never admitted to giving the individual any drugs without a prescription. Mr. Hurd nonetheless instructed the employee not to fill any more prescriptions for the individual.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State law relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors any may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16,422 (1989).

Regarding factor one, there is no evidence that any action has been taken against Respondent's state license. As Judge Bittner notes however, since ''state licensure is a necessary but not sufficient condition for DEA registration, * * * this factor is not dispositive.''

The Acting Deputy Administrator finds that factors two and four, Respondent's experience in dispensing controlled substances and its compliance with applicable laws relating to controlled substances, are extremely relevant in determining the public interest in this matter. Under the Controlled Substances Act and its implementing regulations, pharmacists have a corresponding responsibility to ensure that controlled substances are prescribed and dispensed for a legitimate medical purpose. 21 CFR 1306.04(a). The Government contends that Respondent dispensed controlled substances to the undercover agents knowing that the drugs were not for a legitimate medical purpose. However, the Acting Deputy Administrator agrees with Judge Bittner's conclusion that, ''[i]t is not clear from the record whether or not Mr. Hurd filled the prescriptions knowing that [the undercover agent] intended to use the drugs for no medical purposes.'' While the undercover agents' statements indicating a nonmedical purpose for the drugs are clearly reflected in the transcripts of the visits, Mr. Hurd's responses are unintelligible and Mr. Hurd testified that he did not hear the undercover agents make these statements. In addition, no testimony was elicited from either the undercover agent or the investigator who was monitoring the undercover visits as to what Mr. Hurd's responses were to the undercover agents' statements.

Judge Bittner does point out however, that on one occasion, the transcript indicates that Mr. Hurd asked the undercover agent when she was going to ''party'' with him, and therefore, Mr. Hurd was somewhat aware of the undercover agent's statements. Also at the hearing, Mr. Hurd testified that he dismissed the undercover agent's comment that ''My doctor writes anything I want,'' because he was familiar with the prescribing doctor and felt that the doctor would not prescribe improperly. This testimony by Mr. Hurd indicates that he in fact heard the undercover agent's statement.

The Acting Deputy Administrator finds that the record does not clearly establish whether Respondent dispensed controlled substances to the undercover agent for no legitimate medical purpose. But, like Judge Bittner, the Acting Deputy Administrator concludes that ''in light of the discussion below,* * * it [is] unnecessary to decide whether the record establishes that Mr. Hurd's filling of the prescriptions for Symone Williams would, standing alone, warrant revocation of Respondent's registration.''

The Acting Deputy Administrator finds that the record is clear that Respondent has failed, at the very least, to comply with the recordkeeping requirements of both Federal and state law as evidenced by the violations revealed by the accountability audit. Respondent failed to maintain complete

and accurate records of controlled substances in violation of 21 U.S.C. 827 and 21 CFR 1304.21, as evidenced by the audit discrepancies. For less than a one year period of time, Respondent could not account for over 13,500 dosage units of controlled substances. Respondent did not actually offer any explanation for its failure to account for these drugs. Instead, Mr. Hurd seemed to suggest that the discrepancies were caused by the compounding over time of his estimates of Schedule III through V drugs on hand when conducting his yearly inventory. The Acting Deputy Administrator recognizes that it is permissible to estimate Schedule III through V controlled substances when-conducting controlled substance inventories. See 21 CFR 1304.11(e)(3). However, such estimations would not compound over time. Instead, for each inventory, Respondent would estimate what it had on hand on that date. It was Respondent's estimated inventory taken on February 26, 1993, that was used as the initial inventory for DEA's accountability audit. It is inconceivable that Respondent's estimations on that date were off by over 13,500 dosage units. Therefore, the Acting Deputy Administrator concludes that Respondent did not offer any plausible explanation whatsoever for the tremendous shortages revealed during the audit.

Respondent's failure to maintain 6 purchase invoices and 12 prescriptions is further evidence of its failure to maintain complete and accurate records of controlled substances as required by 21 U.S.C. 827. This failure to keep accurate records also violated the Texas Controlled Substances Act, title 6 Tex. Health & Safety Code §§ 13.6(d) & 13.64(b).

While the Acting Deputy Administrator has concluded that it is unnecessary to determine whether or not Respondent dispensed controlled substances to the undercover agents for no legitimate medical purpose, its dispensing of controlled substances pursuant to the prescriptions presented nonetheless violated 21 CFR 1306.05(a). This regulation imposes a ''corresponding liability [on] the pharmacist who fills a prescription not prepared in the form prescribed by these regulations.'' Pursuant to 21 CFR 1306.05(a), a prescription must contain, among other things, the date of issuance and the address of the patient. The prescriptions filled for the undercover agents did not contain this information. Additionally, Respondent's filling of these prescriptions violated the Texas Controlled Substances Act, Title 6, Tex. Health & Safety Code § 481.074(k)(2) & (3).

Regarding factor three, as Judge Bittner found, ''[t]here is no evidence that Mr. Hurd or any other officer or agent of Respondent has ever been convicted under State or Federal laws relating to controlled substances.'' As to factor five, the Acting Deputy Administrator agrees with Judge Bittner's assessment that the allegation that Respondent dispensed controlled substances without a prescription to the individual who overdosed is entitled to little weight. No corroborating evidence was presented to support the allegation.

Judge Bittner concluded that ''Respondent offers little in the way of an explanation for the serious shortages in inventory and there is no suggestion in this record that Respondent is likely to be more responsible in the future.'' Consequently, Judge Bittner found that Respondent's continued registration would be inconsistent with the public interest, and therefore recommended that its registration be revoked. The Acting Deputy Administrator agrees with Judge Bittner. Respondent's failure to account for over 13,500 dosage units of controlled substances over an approximately one year period of time, is extremely troublesome. At the very least, the shortages indicate that respondent has failed miserably in complying with the requirement that it maintain complete and accurate records of its controlled substance handling. These requirements are in place in order to prevent and detect the diversion of these potentially dangerous substances. Respondent's failure to recognize the seriousness of the shortages, does not bode well for its future compliance with the laws and regulations relating to controlled substances. See Rocco's Pharmacy, 62 FR 3056 (1997). Therefore, the Acting Deputy Administrator concludes that Respondent's continued registration would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AT8866468, previously issued to Townwood Pharmacy, be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 23, 1998.

Dated: February 12, 1998.

**Peter F. Gruden,**

*Acting Deputy Administrator.*

[FR Doc. 98–4201 Filed 2–18–98; 8:45 am]

BILLING CODE 4401–09–M

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the Employment, Wages, and Contributions Report (ES–202 Program).

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addressee section below on or before April 20, 1998.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**ADDRESSES:** Send comments to Kairn G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, D.C. 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:**

## I. Background

The ES–202 program, a Federal/State cooperative effort, produces monthly employment and quarterly wage information. It is a by-product of quarterly reports submitted to State Employment Security Agencies (SESAs) by employers subject to State Unemployment Insurance (UI) laws. The collection of these data is authorized by 29 U.S.C. 1, 2. The ES–202 data, which are compiled for each calendar quarter, provide a comprehensive business name and address file with employment and wage information for employers subject to State UI laws. Similar data for Federal Government employees covered by the Unemployment Compensation for Federal Employees program are also included. These data are submitted to the Bureau of Labor Statistics (BLS) by all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. BLS summarizes these data to produce totals for all counties, Metropolitan Statistical Areas, the States, and the nation. The ES–202 program provides a virtual census of nonagricultural employees and their wages, with about 47 percent of the workers in agriculture covered as well.

The ES–202 program is a comprehensive and accurate source of data on the number of establishments, monthly employment, and quarterly wages, by industry, at the four-digit Standard Industrial Classification (SIC) level, and the national, State, Metropolitan Statistical Area, and county levels. The North American Industry Classification System (NAICS), which will replace the SIC coding system, is scheduled to be implemented in the ES–202 program with data for the first quarter of 2000. The ES–202 series has broad economic significance in measuring labor trends and major industry developments, in time series analyses and industry comparisons, and in special studies such as analyses of establishments, employment, and wages by size of establishment.

## II. Current Actions

BLS is requesting a revision of the current Office of Management and Budget (OMB) approval of the Employment, Wages, and Contributions Report (ES–202 Program).

*Type of Review:* Revision.

*Agency:* Bureau of Labor Statistics.

*Title:* Employment, Wages, and Contributions Report (ES–202 Program).

*OMB Number:* 1220–0012.

*Affected Public:* State, Local, or Tribal Government.

*Total Respondents:* 53.

*Frequency:* Quarterly.

*Total Responses:* 212.

*Average Time Per Response:* 4,464 hours.

*Estimated Total Burden Hours:* 846,400 hours.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 12th day of February, 1998.

**W. Stuart Rust, Jr.,**

*Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 98–4194 Filed 2–18–98; 8:45 am]

**BILLING CODE 4510–24–M**

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

**[Application No. D–10213, et al.]**

### Proposed Exemptions; Bankers Trust Company

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

*Notice to Interested Persons*

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete

statement of the facts and representations.

**Bankers Trust Company (Bankers Trust) Located in New York, New York**

[Application No. D–10213]

*Proposed Exemption*

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective February 16, 1996, to the: (1) lending of certain securities to BT Securities Corporation, Bankers Trust International PLC, and Bankers Trust (Australia) Limited, which are affiliates of Bankers Trust, (collectively; the Affiliated Borrowers), by certain employee benefit plans (including commingled investment funds holding plan assets) (the Client Plans), for which Bankers Trust and certain other affiliates (the BT Group) act as the directed trustee or custodian and securities lending agent or sub-agent; [1] and (2) receipt of compensation by the BT Group in connection with these transactions; provided that the following conditions are satisfied:

1. Neither the Affiliated Borrowers nor the BT Group has or exercises discretionary authority or control with respect to the investment of the assets of the Client Plans involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received), or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, including decisions concerning a Client Plan's acquisition and disposition of securities available for loan.

2. Before a Client Plan participates in a securities lending program and before any loan of securities to the Affiliated Borrowers is affected, a Client Plan fiduciary who is independent of the BT Group and the Affiliated Borrowers must have:

(a) Authorized and approved a securities lending authorization agreement with the BT Group (the Lending Authorization), where the BT Group is acting as the securities lending agent;

(b) Authorized and approved the primary securities lending authorization agreement (the Primary Lending Agreement) with the primary lending agent, where BT Group is lending securities under a sub-agency arrangement with the primary lending agent [2];

(c) Approved the general terms of the securities loan agreement (the Loan Agreement) between such Client Plan and the Affiliated Borrowers, the specific terms of which are negotiated and entered into by BT Group.

3. The Client Plan may terminate the agency or sub-agency agreement at any time without penalty to such plan on five (5) business days notice, whereupon the Affiliated Borrowers shall deliver certificates for securities identical to the borrowed securities (or the equivalent in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the plan within (a) the customary delivery period for such securities, (b) five business days, or (c) the time negotiated for such delivery by the Client Plan and the Affiliated Borrowers, whichever is less.

4. The Client Plan will receive from the Affiliated Borrowers (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day on which the loaned securities are delivered to the Affiliated Borrowers, collateral consisting of U.S. currency, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or an irrevocable bank letter of credit issued by a U.S. bank, which is a person other than the Affiliated Borrowers or an affiliate thereof, or any combination thereof, or other collateral permitted under Prohibited Transaction Exemption (PTE) 81–6 (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans), having, as of the close of business on the preceding business day, a market value (or, in the case of a letter of credit, a stated amount) initially equal to at least 102 percent of the market value of the loaned securities.

If the market value of the collateral on the close of trading on a business day is less than 100 percent of the market value of the borrowed securities at the close of business on that day, the Affiliated Borrowers will deliver additional collateral on the following day such that the market value of the collateral in the aggregate will again equal 102 percent. The Loan Agreement will give the Client Plan a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral. The BT Group will monitor the level of the collateral daily.

5. When the BT Group lends securities to the Affiliated Borrowers, the following conditions must be met:

(a) The collateral will be maintained in U.S. dollars, U.S. dollar-denominated securities or letters of credit of U.S. Banks;

(b) all collateral will be held in the United States;

(c) the situs of the loan agreement will be maintained in the United States; (d) the lending Client Plans will be indemnified by Bankers Trust in the United States for any transactions covered by this exemption with the foreign Affiliated Borrowers so that the Client Plans will not have to litigate in a foreign jurisdiction nor sue the foreign Affiliated Borrowers to realize on the indemnification; (e) prior to the transaction, the foreign Affiliated Borrowers will enter into a written agreement with the Client Plan whereby the Affiliated Borrowers consent to the service of process in the United States and to the jurisdiction of the courts of the United States with respect to the transactions described herein; and (f)(1) Bankers Trust International PLC is a deposit taking institution supervised by the Bank of England; and (2) Bankers Trust (Australia) Limited is a merchant bank which is under the jurisdiction of the Federal Reserve Bank of Australia.

6. Before entering into the Loan Agreement and before a Client Plan lends any securities to the Affiliated Borrowers, the Affiliated Borrowers shall have furnished the following items to the Client Plan fiduciary: (a) the most recent available audited and unaudited statement of the Affiliated Borrowers' financial condition, (b) at the time of the loan, the Affiliated Borrowers must give prompt notice to the Client Plan fiduciary of any material adverse changes in the Affiliated Borrowers' financial condition since the date of the

[1] The applicant represents that because Bankers Trust may add new affiliates, the entities comprising the BT Group may change. However, the Affiliated Borrowers will always be BT Securities Corporation, Bankers Trust International PLC and Bankers Trust (Australia) Limited for purposes of this exemption, if granted.

[2] When the BT Group acts as sub-agent, rather than the primary lending agent, the primary lending agent is receiving no section 406(b) of the Act relief herein. In such situations, the primary lending agent may be provided relief by Prohibited Transaction Class Exemption (PTE) 81–6 and PTE 82–63. PTE 81–6 was published at 46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987, and PTE 82–63 was published at 47 FR 14804, April 6, 1982.

most recently financial statement furnished to the Client Plan, and (c) in the event of any such changes, the BT Group will request approval of the Client Plan to continue lending to the Affiliated Borrowers before making any such additional loans. No such new loans will be made until approval is received. Each loan shall constitute a representation by the Affiliated Borrower that there has been no such material adverse change.

7. The Client Plan: (a) Receives a reasonable fee that is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the case of cash collateral, the Client Plan may pay a loan rebate or similar fee to the Affiliated Borrower, if such fee is not greater than the fee Client Plan would pay an unrelated party in an arm's length transaction.

8. All procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of Prohibited Transaction Exemptions (PTEs) 81–6 and 82–63.

9. In the event Bankers Trust International PLC and/or Bankers Trust (Australia) Limited default on a loan, Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, Bankers Trust will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision). Alternatively, if such identical securities are not available on the market, Bankers Trust will pay the Client Plan cash equal to the market value of the borrowed securities as of the date they should have been returned to the Client Plan plus all the accrued financial benefits derived from the beneficial ownership of such loaned securities. The lending Client Plans will be indemnified by Bankers Trust in the United States for any loans to the foreign Affiliated Borrowers.

10. In the event BT Securities Corporation, a U.S. registered broker-dealer, defaults on a loan, Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, BT Securities Corporation will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision).

11. If the Affiliated Borrowers' default on the securities loan or enter bankruptcy, the collateral will not be available to the Affiliated Borrowers or their creditors, but is used to make the Client Plan whole.

12. The Client Plans will be entitled to the equivalent of all distributions made to holders of the borrowed securities, including all interest, dividends and distributions on the loaned securities during the loan period.

13. Only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the Affiliated Borrowers.

14. For purposes of this proposed exemption, the Affiliated Borrowers will consist only of BT Securities Corporation, Bankers Trust International PLC and Bankers Trust (Australia) Limited.

15. In any calendar quarter, on average 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of the Client Plans by the BT Group in the aggregate will be to borrowers who are not affiliated with the BT Group.

16. The terms of each loan of securities by the Client Plans to any of the Affiliated Borrowers will be at market rates and at terms as favorable to such plans as if made at the same time and under the same circumstances to an unaffiliated party.

17. Each Client Plan will receive a monthly transaction report, including but not limited to the information described in paragraph 24 of the summary of facts and representations below, so that the independent fiduciary of such plan may monitor the securities lending transactions with the Affiliated Borrowers.

18. During the notification of interested persons period, all current Client Plans will receive a copy of the notice of pendency. If the Department grants the final exemption, current Client Plans will receive a copy of the final exemption. Also, Bankers Trust is prepared to provide a copy of the final exemption to any new Client Plans.

19. Bankers Trust or the Affiliated Borrowers maintain or cause to be maintained within the United States for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (20) below to determine whether the conditions of this exemption have been met; except that a party in interest with respect to an employee benefit plan, other than Bankers Trust or the Affiliated Borrowers, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975 (a) or (b) of the Code, if such records are not maintained, or are not available for examination as required by this section, and a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of Bankers Trust or the Affiliated Borrowers, such records are lost or destroyed prior to the end of such six year period.

(20)(i) Except as provided in subparagraph (ii) of this paragraph (20) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (19) are unconditionally available at their customary location for examination during normal business hours by—

(a) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission,

(b) Any fiduciary of a Client Plan or any duly authorized representative of such fiduciary,

(c) Any contributing employer to any Client Plan, or any duly authorized employee or representative of such employer, and

(d) Any participant or beneficiary of any Client Plan, or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subparagraphs (b)–(d) of this paragraph (20) shall be authorized to examine trade secrets of Bankers Trust or the Affiliated Borrowers, or commercial or financial information which is privileged or confidential.

**EFFECTIVE DATE:** If granted this exemption will be effective as of February 16, 1996.

*Summary of Facts and Representations*

1. Bankers Trust is a New York banking corporation and a leading commercial bank. Bankers Trust is wholly owned by Bankers Trust New York Corporation (BTNY), a bank holding company established in 1965 under the laws of the State of New York. As of December 31, 1995, BTNY and its affiliates had consolidated assets of $104,002,000,000 and total stockholders equity of $4,984,000,000.

The BT Group consists of Bankers Trust and certain of its affiliates who act as a directed trustee, custodian and securities lending agent or sub-agent for clients. The BT Group engages in securities lending activities for its own accounts and as an agent for Bankers

Trust Company of California and for Bankers Trust Company of the Southwest. The BT Group also provides a wide range of banking, fiduciary, recordkeeping, custodial, brokerage and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors.

2. The Affiliated Borrowers consist of BT Securities Corporation, Bankers Trust International PLC and Bankers Trust (Australia) Limited. The exemption, if granted, will be limited to these three entities as the Affiliated Borrowers. BT Securities Corporation is a U.S. broker-dealer affiliated with Bankers Trust with $834 million in capital as of December 31, 1995. BT Securities Corporation is registered under the 1934 Act and its activities are under the jurisdiction of the Federal Reserve Board, the Securities and Exchange Commission and the National Association of Securities Dealers.

Bankers Trust International PLC is a wholly owned subsidiary of Bankers Trust established under English law and located in England. Bankers Trust International PLC is a deposit taking institution supervised by the Bank of England.

Bankers Trust (Australia) Limited is a merchant bank which conducts commercial banking business in Australia and is under the jurisdiction of the Federal Reserve Bank of Australia. Bankers Trust (Australia) Limited is an indirect subsidiary of Bankers Trust.

3. The Affiliated Borrowers will borrow securities from institutions to satisfy their own needs, or they may re-lend these securities to brokerage firms and other entities which need a particular security for a certain period of time. Bankers Trust requests an exemption for the lending of securities owned by the Client Plans, for which the BT Group serves as the directed trustee or custodian and securities lending agent or sub-agent, [3] to the Affiliated Borrowers, following disclosure of its affiliation with the Affiliated Borrowers to the Independent Fiduciaries of the Client Plans, and for the receipt of compensation by the BT Group in connection with such transactions.

Because the BT Group, under the securities lending program, would have discretion to lend plan securities to the Affiliated Borrowers, and because the Affiliated Borrowers are affiliates of the BT Group, the lending of securities to the Affiliated Borrowers by the Client Plans for which the BT Group serves as directed trustee or custodian and securities lending agent (or sub-agent) may be outside the scope of relief provided by Prohibited Transaction Exemption (PTE) 81–6 and PTE 82–63.[4]

Several safeguards, described more fully below, are incorporated into the application to ensure the protection of the Client Plans' assets involved in the transactions. In addition, the applicants represent that the lending program described herein incorporates the relevant conditions contained in PTE 81–6 and PTE 82–63.

4. BT Securities Corporation, a U.S. registered broker-dealer, will comply with Federal Reserve Board's Regulation T in its securities lending activities. Pursuant to Regulation T, permitted borrowing purposes include making delivery of securities in the case of short sales, failures of a broker to receive securities it is required to deliver or similar situations.

The Client Plans will also lend securities to the foreign Affiliated Borrowers (Foreign Lending) which are Bankers Trust International PLC and Bankers Trust (Australia) Limited. The applicant represents that Foreign Lending will not expose the Client Plans to greater risk. In Foreign Lending, Bankers Trust will comply with the following safeguards: (a) The collateral will be maintained in U.S. dollars, U.S. dollar-denominated securities or letters of credit of U.S. Banks; (b) all collateral will be held in the United States; [5] (c) the situs of the loan agreement will be maintained in the United States; (d) Bankers Trust will indemnify the lending Client Plans in the United States for any loans to the foreign Affiliated Borrowers so that the Client Plans will not have to litigate in a foreign jurisdiction nor sue the foreign Affiliated Borrowers to realize on the indemnification; (e) prior to the transaction, the foreign Affiliated Borrowers enter into a written agreement with the Client Plan whereby the Affiliated Borrowers consent to the jurisdiction of the courts of the United States with respect to the transactions described herein; and (f)(1) Bankers Trust International PLC is a deposit taking institution supervised by the Bank of England; and (2) Bankers Trust (Australia) Limited is a merchant bank which is under the jurisdiction of the Federal Reserve Bank of Australia.

5. Where the BT Group acts as a securities lending agent for the Client Plans its essential functions are identifying appropriate borrowers of securities and negotiating the terms of the loans to these borrowers. As a securities lending agent for the Client Plans, the BT Group also provides ancillary services such as monitoring the level of collateral and the value of the loaned securities and, when directed by a Client Plan, investing the cash collateral received with respect to such loans. To protect the Client Plans' assets in these transactions, the BT Group's procedures for lending securities comply with the applicable conditions of PTE 81–6 and PTE 82–63 (including with respect to any commingled funds that may participate in the securities lending program).

6. Under the BT Group's lending program, when a loan is collateralized with cash, the BT Group will transfer such cash to a trust or other investment vehicle selected by the Client Plan in

[3] For the sake of simplicity, future references to the BT Group's performance of services as securities lending agent should be deemed to include its parallel performance as securities lending sub-agent and references to the Client Plans should be deemed to refer to plans for which the BT Group is acting as sub-agent with respect to securities lending activities, unless otherwise indicated specifically or by the context of the reference.

[4] PTE 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to certain broker-dealers or banks which are parties in interest.

Condition 1 of PTE 81–6 requires, in part, that neither the borrower nor an affiliate of the borrower has discretionary authority or control with respect to the investment of the plan assets involved in the transaction.

PTE 82–63 (47 FR 14804, April 6, 1982) provides an exemption under specified conditions from section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code for the payment of compensation to a plan fiduciary for services rendered in connection with loans of plan assets that are securities. PTE 82–63 permits the payment of compensation to a plan fiduciary for the provision of securities lending services only if the loan of securities itself is not prohibited under section 406(a) of the Act.

[5] Under U.K. law, the securities lending agreement between Bankers Trust and Bankers Trust International PLC provides, among other things, that all rights, title and interest in the loaned securities passes to the borrower, and all rights, title and interest in the collateral passes to the lending Client Plan.

The Australian securities lending agreement contains, among other things, the following provisions. Specifically, clause 3.4 of such agreement states: ''Property in and title to the securities delivered under clause 3.1, passes absolutely to the borrower free from all liens and encumbrances, and the borrower is not obligated to re-deliver the same securities to the lender.'' Clause 3.5 of this agreement states: ''Property in and title to all the collateral delivered under clause 3.2, passes absolutely to the lender free from all liens and encumbrances, and the lender is not obligated under the loan to re-deliver the same cash, bonds or securities to the borrower (all or part) of the collateral.'' However, as a condition of this exemption if granted, and by agreement of the parties, the Client Plans will be entitled to the equivalent of all interest, dividends and distributions on the loaned securities during the loan period.

advance.[6] The BT Group will rebate a portion of the earnings on the cash collateral to the Affiliated Borrowers as agreed to in the loan agreement between the BT Group and the Affiliated Borrowers (the Loan Agreement). The applicant represents that through its authorization of the lending program, the independent fiduciary of the Client Plan will approve the terms of the Loan Agreement. The Affiliated Borrowers will pay a fee to the Client Plans based on the value of the loaned securities where the collateral consists of obligations other than cash.

The fee arrangements between the Client Plan and the BT Group with respect to the securities lending program are approved in advance by the independent fiduciary of the Client Plan. This fee is calculated as a percentage of the income earned on the investment of the cash collateral, and will compensate the BT Group for providing lending services to the Client Plans. This fee will reduce the income earned by the Client Plans from the lending of the securities.

7. Where BT Group is the securities lending agent, an independent fiduciary of the Client Plan who is independent of the BT Group and the Affiliated Borrowers, will authorize securities lending (the Lending Authorization) before the Client Plan participates in the BT Group's securities lending program. The Lending Authorization will include the authorization to lend securities, including lending to the Affiliated Borrowers, investment direction by the Client Plans of cash collateral, and fee arrangements. The Lending Authorization and the enclosed additional explanatory materials will describe, among other things, the operation of the securities lending program and allow the BT Group to lend securities held by the Client Plan to borrowers, including the Affiliated Borrowers, as selected by the BT Group, subject to any specific restrictions imposed by the Client Plan. The Lending Authorization and the explanatory materials also describe the securities available for lending, minimum required margin, daily marking to market procedures, a list of the affiliates who are permissible borrowers under the securities lending program, and the basis of the BT Group's compensation for performing the securities lending services.

8. The Lending Authorization and the explanatory materials will provide that if one of the Affiliated Borrower's is an approved borrower, the BT Group, as agent of the Client Plan, will represent to the Client Plan that each loan made to its affiliate on behalf of the Client Plan will be at market rates and at terms as favorable to the Client Plan as if made at the same time and under the same circumstances, to an unaffiliated borrower.

9. The Lending Authorization will set forth a fee arrangement agreed upon by the Client Plan and the BT Group, whereby the BT Group will be compensated for its services as the lending agent prior to the commencement of any lending activity. The Client Plan will be provided with any reasonably available information necessary for the independent fiduciary of the Client Plan to determine whether to enter into, or continue to participate under the Lending Authorization (or the Primary Lending Agreement) and other reasonably available information which the independent fiduciary may reasonably request. A Client Plan may terminate either the Lending Authorization or the Primary Lending Agreement at any time, without penalty, on five business days notice.

10. Where the BT Group is the securities lending agent, the BT Group will enter into the Loan Agreement with the Affiliated Borrower on behalf of the Client Plans. The form of the Loan Agreement will be substantially similar to loan agreements negotiated with other similarly situated borrowers.[7] The form of the Loan Agreement will also be the industry or the market standard for loans to the borrowers in the country (U.S., U.K. and Australia) where the borrower is domiciled. It will describe the lenders's rights against the borrower in the country of the borrower's domicile (U.S., U.K., and Australia), and represent that these rights will be equivalent to those under U.S. law. The independent fiduciary for each Client Plan will approve the terms of the Loan Agreement through its authorization of the lending program, and such fiduciary will be provided a copy of the applicable Loan Agreement from the BT Group upon request. The Loan Agreement will specify, among other things, the right of the BT Group as the lending agent on behalf of the Client Plan to terminate a loan at any time on not more than five business days notice, and the lending agent's rights in the event of any default by the borrower. The Loan Agreement will also require that the Affiliated Borrowers pay all transfer fees and transfer taxes related to the security loans. The Loan Agreement will describe the basis for compensation to the Client Plan for lending securities to the Affiliated Borrowers under each category of collateral.

11. The BT group may also be retained by independent primary securities lending agents to render securities lending services in a sub-agent capacity. Under these circumstances, the primary lending agent, an entity independent of the BT Group and the Affiliated Borrower, will enter into a securities lending agency agreement (the Primary Lending Agreement) with an independent fiduciary of the Client Plan who is independent of the primary lending agent, the BT Group and the Affiliated Borrowers, before the Client Plan participates in the securities lending program. The BT Group will not enter into a sub-agent arrangement unless the Primary Lending Agreement contains provisions which correspond to those in the Loan Agreement where the BT Group is the primary securities lending agent, including a description of the lending program's operation, the use of an approved form of the loan agreement, the specification of securities which are available to be lent, the required margin and daily marking to market, and a list of the approved borrowers (including, the Affiliated Borrowers). The Primary Lending Agreement will authorize the primary lending agent to appoint sub-agents in order to facilitate its performance of securities lending agency functions.

The Primary Lending Agreement will expressly disclose where the BT Group will be acting as the securities lending sub-agent. The Primary Lending Agreement will also set forth the basis and rate for the primary lending agent's compensation from the Client Plan for performing securities lending services, and will authorize the primary lending agent to pay a portion of its fee, as

[6] When the Client Plan approves securities lending, it is required to designate a short-term investment fund for the investment of cash collateral it receives in connection with the loaned securities. For example, when the Client Plan selects BT Pyramid Funds, which are bank collective funds under IRS Revenue Ruling 81–100, as a vehicle for investment of cash collateral, the fees for investment management are embedded in that fund. However, the applicant represents that selecting a vehicle managed by Bankers Trust is strictly optional and within the total discretion of the Client Plan. Alternatively, the independent fiduciary of the Client Plan may select his own manager, an unrelated mutual or collective fund, or another vehicle of his choice. The selected investment vehicle must be acceptable to Bankers Trust. Bankers Trust neither selects the collateral investment vehicle, nor has any authority or responsibility to do so.

[7] The form of the Loan Agreement between a securities lending agent and a foreign Affiliated Borrower differs from the standard U.S. loan agreement. Under the U.K. and Australian Loan Agreements, the Client Plan receives title to (rather than a pledge of, or a security interest in) the collateral.

Furthermore, the Loan Agreement with the Client plans will include specific indemnification provisions as described herein.

determined by the primary lending agent in its sole discretion, to any sub-agent(s) it retains pursuant to the authority granted under such Primary Lending Agreement.[8]

Pursuant to its authority to appoint sub-agents, the primary lending agent will enter into a securities lending sub-agency agreement (the Sub-Agency Agreement) with the BT Group, under which the primary lending agent will retain and authorize the BT Group, as the sub-agent, to lend securities of the primary lending agent's Client Plans, subject to the same terms and conditions of the Primary Lending Agreement. Thus, the form of the Loan Agreement will be the same as that approved by the independent fiduciary in the Primary Lending Agreement, and the list of permissible borrowers under the Sub-Agency Agreement (including the Affiliated Borrowers), will be limited to those approved borrowers listed as such under the Primary Lending Agreement. The Sub-Agency Agreement will also contain provisions comparable to those in a Loan Agreement where the BT Group is the primary lending agent. The Sub-Agency Agreement will provide that the BT Group comply with the same standard regarding arms-length dealing with the Affiliated Borrowers, as when the BT Group is the primary lending agent. The Sub-Agency Agreement will also set forth the basis and the rate for the BT Group's compensation to be paid by the primary lending agent.

12. In all cases, the BT Group will maintain transactional and market records sufficient to assure compliance with its representations that all loans to the Affiliated Borrowers are at arm's-length terms. Information will be provided to the independent fiduciary of the Client Plan in the manner and format agreed to with the lending agent, without charge to the Client Plan.

13. Before entering into the Loan Agreement, the Affiliated Borrowers will furnish its most recent available audited and unaudited financial statements to the Client Plan Fiduciary, and each Client Plan will be advised in the Lending Authorization that it will be provided copies of such statements upon request, and before the Client Plan is asked to authorize such lending. The Loan Agreement will contain a requirement that the Affiliated Borrowers must give prompt notice at the time of the loan, of any material adverse changes in their financial condition since the date of the most recently furnished financial statements. In the event of any such changes, the BT Group will request approval of the Client Plan to continue lending to the Affiliated Borrowers before making any such additional loans. No such new loans will be made until approval is received. Each loan shall constitute a representation by the Affiliated Borrower that there has been no such material adverse change.

14. Each time that a Client Plan loans securities to the Affiliated Borrower pursuant to the Loan Agreement, the BT Group will reflect in its records the material terms of the loan, including the securities loaned, the required level of the collateral, and the fee or rebate payable. The terms of each loan will be at least as favorable to the Client Plan as those of a comparable arm's-length transaction between unrelated parties.

15. The Loan Agreement will provide that the lending agent may terminate any loan at any time. Upon a termination, the Affiliated Borrowers will be contractually obligated to return the loaned securities to the lending agent within the lesser of: (a) The customary delivery period for such securities; (b) five business days of notification (or such longer period of time permitted pursuant to a class exemption); or (c) the time negotiated for such delivery by the lending agent and the borrower. If the Affiliated Borrowers fail to return the securities within the designated time, the lending agent will have the right under the Loan Agreement to purchase securities identical to the borrowed securities, and apply the collateral to the payment of the purchase price and any other costs and expenses reasonably incurred as a result of such sale and/or purchase.

16. Further, the Client Plans will be indemnified by Bankers Trust or BT Securities Corporation in the event the Affiliated Borrowers fail to return the borrowed securities. In the event Bankers Trust International PLC and/or Bankers Trust (Australia) Limited default on a loan Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. In the event the collateral is insufficient to accomplish such purchase, Bankers Trust will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision). Alternatively, if such identical securities are not available on the market, Bankers Trust will pay the Client Plan cash equal to the market value of the borrowed securities as of the date they should have been returned to the Client Plan plus all the accrued financial benefits derived from the beneficial ownership of such loaned securities. The lending Client Plans will be indemnified by Bankers Trust in the United States for any loans to the foreign Affiliated Borrowers.

When the Affiliated Borrower is BT Securities Corporation, a U.S. registered broker-dealer, BT Securities Corporation will indemnify the Client Plan against losses.[9] Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, BT Securities Corporation will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision).

17. The BT Group will establish each day a written schedule of lending fees and rebate rates in order to assure uniformity of treatment among borrowing brokers and to limit the discretion the BT Group would have in negotiating securities loans to the Affiliated Borrowers. Loans to the Affiliated Borrowers on any day will be made at rates on the daily schedule or at rates which may be more advantageous to the Client Plans. In no case will loans be made to the Affiliated Borrowers at rates below those on the schedule. The rebate rates which are established with respect to cash-collateralized loans, will take into account the potential demand for loaned securities, the applicable bench-mark cost of funds indices (typically, Federal Funds, overnight repo rate or the like) and anticipated investment return on investments of cash collateral. The lending fees (in respect of loans made by Client Plans collateralized by other than cash) which are established will be set daily to reflect conditions as influenced by potential market demand.

18. BT Group will adopt maximum daily rebate rates for cash collateral payable to the Affiliated Borrowers on behalf of a lending Client Plan. Separate

[8] The foregoing provisions describe arrangements comparable to conditions (c) and (d) of PTE 82–63 which require that the payment of compensation to a ''lending fiduciary'' is made under a written instrument and is subject to prior written authorization of an independent ''authorizing fiduciary.'' In the event that a commingled investment fund will participate in the securities lending program, the special rule applicable to such funds concerning the authorization of the compensation arrangement set forth in paragraph (f) of PTE 82–63 will be satisfied.

[9] It is represented that under applicable banking laws BT Securities Corporation may not be indemnified by Bankers Trust.

maximum daily rebate rates will be established with respect to loans of designated classes of securities such as U.S. government securities, U.S. equities and corporate bonds, international fixed income securities, and international equities. The BT Group will submit the terms for determining the maximum daily rebate rates to an independent fiduciary of the Client Plan for approval before lending any securities to the Affiliated Borrowers on behalf of such plan. With respect to each designated class of securities, the maximum daily rebate rate will generally be the lower of: (i) The overnight repo rate or Federal Funds rate, minus a stated percentage, and (ii) the actual investment rate for the relevant cash collateral, minus a stated percentage. Thus, when cash is used as collateral, the daily rebate rate should always be lower than the rate of return to the Client Plans from authorized investments of cash collateral.

19. BT Group will also adopt minimum daily lending fees for non-cash collateral payable by the Affiliated Borrowers to the BT Group on behalf of the Client Plan. Separate minimum daily lending fees will be established with respect to loans of designated classes of securities, such as U.S. government securities, U.S. equities and corporate bonds, international fixed income securities, and international equities. The BT Group will submit the terms for determining such fees to an independent fiduciary of the Client Plan for approval before lending securities to the Affiliated Borrowers on behalf of such plan. With respect to each designated class of securities, the minimum lending fee will be a percentage of the principal value of the loaned securities.

20. For collateral other than cash, the lending fees charged the previous day will be reviewed by the BT Group for competitiveness. Because 50 percent (50%) or more of securities loans by Client Plans will be to unrelated parties, regardless of the type of collateral used to secure the loans, the competitiveness of the BT Group's fee schedule will be continuously tested in the marketplace. Accordingly, loans to the Affiliated Borrowers should result in a competitive rate of income to the lending Client Plans. At all times, the BT Group will effect loans in a prudent and diversified manner.

21. Should the BT Group recognize prior to the end of a business day that, with respect to new and/or existing loans, it must change the rebate rate or lending fee formula in the best interest of Client Plans, it may do so with respect to the Affiliated Borrowers.

If the BT Group reduces the lending fee or increases the rebate rate on any outstanding loan to the Affiliated Borrower (except for any change resulting from a change in the value of any third party independent index with respect to which the fee or rebate is calculated), the BT Group, by the close of business on the date of such adjustment, shall provide to the independent fiduciary of the Client Plan with notice that it has reduced such fee or increased the rebate rate to such Affiliated Borrower and that the Client Plan may terminate such loan at any time. The BT Group shall provide the independent fiduciary with such information as the independent fiduciary may reasonably request regarding the adjustment.

22. BT Group will usually lend securities to requesting borrowers on a ''first come, first served'' basis, as a means of assuring uniformity of treatment among borrowers. However, in some instances, the borrower's credit limit may be reached, and the first in line borrower will not be approved as a borrower by the Client Plan. In other instances, there may be more than one prospective borrower that seeks to borrow a particular security at approximately the same time. In these situations, the BT Group will either lend to the next in line approved borrower, or allocate the loan equitably among competing borrowers, as applicable.

23. The Client Plan will receive collateral from the Affiliated Borrowers by physical delivery, book entry in a securities depository, wire transfer or similar means, by the close of business on or before the day the loaned securities are delivered to the Affiliated Borrowers. The collateral will consist of cash, securities issued or guaranteed by the U.S. Government or its agencies or irrevocable bank letters of credit issued by a U.S. bank, which is a person other than the Affiliated Borrowers or an affiliate thereof. The market value of the collateral on the close of business on the day of, or the business day preceding the day of the loan, will be at least 102 percent of the market value of the loaned securities. The Loan Agreement involving BT Securities Corporation will give the Client Plan a continuing security interest in and a lien on the collateral or the equivalent under local law. However, under the U.K. and Australian Loan Agreements, the Client Plan receives title to (rather than a pledge of, or security interest in) the collateral from Bankers Trust International PLC and Bankers Trust (Australia) Limited. The BT Group will monitor the level of the collateral daily. If the market value of the collateral falls below 100 percent (or such greater percentage as agreed to by the parties) of the loaned securities, the BT Group will require the Affiliated Borrowers to deliver by the close of business the next business day sufficient additional collateral to bring the level back to at least 102 percent.

Bankers Trust represents that in the event of the Affiliated Borrowers' default or bankruptcy, the collateral is used to make the Client Plan whole, and is not available to the Affiliated Borrowers or their creditors. The collateral is held for the benefit of the Client Plan and is not available to the Affiliated Borrowers until the securities loan is terminated, and the loaned securities plus any income thereon are returned to the Client Plan. When the Client Plans lend securities to foreign Affiliated Borrowers, collateral will be maintained pursuant to the relevant conditions contained in paragraph 4 above.

24. Each Client Plan participating in the lending program will be sent a monthly [10] transaction report. This monthly report will provide a list of all securities loans outstanding and closed for a specified period. The report will identify for each open loan position, the securities involved, the value of the securities for collateralization purposes, the current value of the collateral, the rebate or the loan fee at which the securities are loaned, and the number of days the securities have been on loan.

In order to provide the means for monitoring lending activity, rates on loans to the Affiliated Borrowers compared with loans to other borrowers, and the level of collateral on the loans, it is represented that the monthly report will show, on a daily basis, the market value of all outstanding security loans to the Affiliated Borrowers and to other borrowers. Further, the BT Group will advise the Client Plans that upon request, the monthly report will state the daily fees where collateral other than cash is utilized and will specify the details used to establish the daily rebate payable to all brokers where cash is used as collateral. The monthly report also will state, on a daily basis, the rates at which securities are loaned to the Affiliated Borrowers and those at which securities are loaned to other borrowers.

25. Only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the Affiliated Borrowers. This restriction is intended

[10] More frequent reports will be made available at the Client Plan's request.

to assure that any lending to the Affiliated Borrowers will be monitored by an independent fiduciary who is experienced and sophisticated in matters of this kind.

26. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

A. Neither the Affiliated Borrowers nor the BT Group has or exercises discretionary authority or control with respect to the investment of the assets of the Client Plans involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received), or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, including decisions concerning a Client Plan's acquisition and disposition of securities available for loan.

B. Before a Client Plan participates in a securities lending program and before any loan of securities to the Affiliated Borrowers is affected, a Client Plan fiduciary who is independent of the BT Group and the Affiliated Borrowers must have:

(1) Authorized and approved the Lending Authorization with the BT Group, where the BT Group is acting as the securities lending agent;

(2) Authorized and approved the Primary Lending Agreement with the primary lending agent, where BT Group is lending securities under a sub-agency arrangement with the primary lending agent; [11]

(3) Approved the general terms of the Loan Agreement between such Client Plan and the Affiliated Borrowers, the specific terms of which are negotiated and entered into by BT Group.

C. The Client Plan may terminate the agency or sub-agency agreement at any time without penalty to such plan on five (5) business days notice, whereupon the Affiliated Borrowers shall deliver certificates for securities identical to the borrowed securities (or the equivalent in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the plan within (1) the customary delivery period for such securities, (2) five business days, or (3) the time negotiated for such delivery by the Client Plan and the Affiliated Borrowers, whichever is less.

D. The Client Plan will receive from the Affiliated Borrowers (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day on which the loaned securities are delivered to the Affiliated Borrowers, collateral consisting of U.S. currency, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or an irrevocable bank letter of credit issued by a U.S. bank, which is a person other than the Affiliated Borrowers or an affiliate thereof, or any combination thereof, or other collateral permitted under Prohibited Transaction Exemption (PTE) 81–6 (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans), having, as of the close of business on the preceding business day, a market value (or, in the case of a letter of credit, a stated amount) initially equal to at least 102 percent of the market value of the loaned securities.

If the market value of the collateral on the close of trading on a business day is less than 100 percent of the market value of the borrowed securities at the close of business on that day, the Affiliated Borrowers will deliver additional collateral on the following day such that the market value of the collateral in the aggregate will again equal 102 percent. The Loan Agreement will give the Client Plan a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral. The BT Group will monitor the level of the collateral daily.

E. When the BT Group lends securities to the Affiliated Borrowers, the following conditions must be met: (1) The collateral will be maintained in U.S. dollars, U.S. dollar-denominated securities or letters of credit of U.S. Banks; (2) all collateral will be held in the United States; (3) the situs of the loan agreement will be maintained in the United States; (4) the lending Client Plans will be indemnified by Bankers Trust in the United States for any transactions covered by this exemption with the foreign Affiliated Borrowers so that the Client Plans will not have to litigate in a foreign jurisdiction nor sue the foreign Affiliated Borrowers to realize on the indemnification; (5) prior to the transaction, the foreign Affiliated Borrowers will enter into a written agreement with the Client Plan whereby the Affiliated Borrowers consent to the service of process in the United States and to the jurisdiction of the courts of the United States with respect to the transactions described herein; and (6)(a) Bankers Trust International PLC is a deposit taking institution supervised by the Bank of England; and (b) Bankers Trust (Australia) Limited is a merchant bank which is under the jurisdiction of the Federal Reserve Bank of Australia.

F. Before entering into the Loan Agreement and before a Client Plan lends any securities to an Affiliated Borrower, the Affiliated Borrower shall have furnished the following items to the Client Plan fiduciary: (1) The most recent available audited and unaudited statement of the Affiliated Borrowers' financial condition, (2) at the time of the loan, the Affiliated Borrowers must give prompt notice to the Client Plan fiduciary of any material adverse changes in the Affiliated Borrowers' financial condition since the date of the most recently financial statement furnished to the Client Plan, and (3) in the event of any such changes, the BT Group will request approval of the Client Plan to continue lending to the Affiliated Borrowers before making any such additional loans. No such new loans will be made until approval is received. Each loan shall constitute a representation by the Affiliated Borrower that there has been no such material adverse change.

G. The Client Plan: (1) Receives a reasonable fee that is related to the value of the borrowed securities and the duration of the loan, or (2) has the opportunity to derive compensation through the investment of cash collateral. In the case of cash collateral, the Client Plan may pay a loan rebate or similar fee to the Affiliated Borrower, if such fee is not greater than the fee Client Plan would pay an unrelated party in an arm's length transaction.

H. All procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of Prohibited Transaction Exemptions (PTEs) 81–6 and 82–63.

I. In the event Bankers Trust International PLC and/or Bankers Trust (Australia) Limited default on a loan, Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, Bankers Trust will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision). Alternatively, if such identical securities are not available on the market, Bankers Trust will pay the Client Plan cash equal to the market value of the borrowed securities as of the date they should have been returned to the Client Plan plus all the accrued

[11] See Footnote 2, *supra.*

financial benefits derived from the beneficial ownership of such loaned securities. The lending Client Plans will be indemnified by Bankers Trust in the United States for any loans to the foreign Affiliated Borrowers.

J. In the event BT Securities Corporation, a U.S. registered broker-dealer, defaults on a loan, Bankers Trust will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, BT Securities Corporation will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to properly indemnify under this provision).

K. If the Affiliated Borrowers' default on the securities loan or enter bankruptcy, the collateral will not be available to the Affiliated Borrowers or their creditors, but is used to make the Client Plan whole.

L. The Client Plans will be entitled to the equivalent of all distributions made to the holders of the borrowed securities, including all interest, dividends and distributions on the loaned securities during the loan period.

M. Only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the Affiliated Borrowers.

N. For purposes of this proposed exemption, the Affiliated Borrowers will consist only of BT Securities Corporation, Bankers Trust International PLC and Bankers Trust (Australia) Limited.

O. In any calendar quarter, on average 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of the Client Plans by the BT Group in the aggregate will be to borrowers who are not affiliated with the BT Group.

P. The terms of each loan of securities by the Client Plans to any of the Affiliated Borrowers will be at market rates and at terms as favorable to such plans as if made at the same time and under the same circumstances to an unaffiliated party.

Q. Each Client Plan will receive monthly transaction report, including but not limited to the information described in paragraph 24 of the summary of facts and representations above, so that the independent fiduciary of such plan may monitor the securities lending transactions with the Affiliated Borrowers.

R. During the notification of interested persons period, all current Client Plans will receive a copy of the notice of pendency. If the Department grants the final exemption, current Client Plans will receive a copy of the final exemption. Also, Bankers Trust is prepared to provide a copy of the final exemption to any new Client Plans.

*Notice to Interested Persons*

Those persons who may be interested in the pendency of this exemption include the named fiduciaries of any affected Client Plan for which the BT Group serves as the lending agent. The applicant represents that it proposes to notify the interested persons within fifteen (15) days of the publication of the notice of the proposed exemption in the **Federal Register**. Such notice will contain a copy of the notice of the proposed exemption published in the **Federal Register** and a supplemental statement described at 29 CFR 2570.43 (b)(2) advising interested persons of their right to comment and to request a hearing on the proposed exemption. Accordingly, comments and hearing requests on the proposed exemption are due forty five (45) days after the date of publication of this proposed exemption in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number.)

**Goldman Sachs & Co. (Goldman Sachs) and The Goldman Sachs Trust Company (GSTC) Located in New York, NY**

[Application No. D–10306]

*Proposed Exemption*

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective July 31, 1996, to the past and continued lending of securities to Goldman Sachs International or any other Goldman Sachs affiliate based in the United Kingdom (together, GSI), Goldman Sachs, affiliated U.S. registered broker-dealers of Goldman Sachs, or Goldman Sachs (Japan), Ltd., including any of its affiliates (together, Goldman Sachs (Japan),[12] by employee benefit plans (the Client Plans), including commingled investment funds holding Plan assets, for which Goldman Sachs Trust Company (GSTC), an affiliate of Goldman Sachs, acts as securities lending agent (or sub-agent) and to the receipt of compensation by GSTC in connection with these transactions, provided that the following conditions are met:

(a) For each Client Plan, neither GSTC, Goldman Sachs nor an affiliate of either has or exercises discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

(b) Any arrangement for GSTC to lend Plan securities to Goldman Sachs in either an agency or sub-agency capacity is approved in advance by a Plan fiduciary who is independent of Goldman Sachs and GSTC.[13] In this regard, the independent Plan fiduciary also approves the general terms of the securities loan agreement (the Loan Agreement) between the Client Plan and Goldman Sachs, although the specific terms of the Loan Agreement are negotiated and entered into by GSTC and GSTC acts as a liaison between the lender and the borrower to facilitate the lending transaction.

(c) The terms of each loan of securities by a Client Plan to Goldman Sachs is at least as favorable to such Plans as those of a comparable arm's length transaction between unrelated parties.

(d) A Client Plan may terminate the agency or sub-agency arrangement at any time without penalty to such Plan on five business days notice.

(e) The Client Plan receives from Goldman Sachs (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to Goldman Sachs, collateral consisting of cash, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or

[12] Unless otherwise noted, for purposes of this proposed exemption, Goldman Sachs, the affiliated U.S. registered broker-dealers of Goldman Sachs, GSI and Goldman Sachs (Japan) are collectively referred to herein as Goldman Sachs.

[13] The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than GSTC, beyond that provided pursuant to Prohibited Transaction Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) and PTE 82–63 (47 FR 14804, April 6, 1982).

irrevocable United States bank letters of credit issued by a person other than Goldman Sachs or an affiliate thereof, or any combination thereof, or other collateral permitted under PTE 81–6, as it may be amended or superseded.

(f) As of the close of business on the preceding business day, the fair market value of the collateral initially equals at least 102 percent of the market value of the loaned securities and, if the market value of the collateral falls below 100 percent, Goldman Sachs delivers additional collateral on the following day such that the market value of the collateral again equals 102 percent.

(g) Prior to entering into the Loan Agreement, Goldman Sachs furnishes GSTC its most recently available audited and unaudited statements, which is, in turn, provided to a Client Plan, as well as a representation by Goldman Sachs, that as of each time it borrows securities, there has been no material adverse change in its financial condition since the date of the most recently-furnished statement that has not been disclosed to such Client Plan; provided, however, that in the event of a material adverse change, GSTC does not make any further loans to Goldman Sachs unless an independent fiduciary of the Client Plan is provided notice of any material adverse change and approves the loan in view of the changed financial condition.

(h) In return for lending securities, the Client Plan either—

(1) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash collateral. (Under such circumstances, the Client Plan may pay a loan rebate or similar fee to Goldman Sachs, if such fee is not greater than the fee the Client Plan would pay in a comparable arm's length transaction with an unrelated party.)

(i) All procedures regarding the securities lending activities conform to the applicable provisions of Prohibited Transaction Exemptions PTE 81–6 and PTE 82–63 as well as to applicable securities laws of the United States, the United Kingdom or Japan.

(j) Each Goldman Sachs entity indemnifies and holds harmless each lending Client Plan in the United States against any and all losses, damages, liabilities, costs and expenses (including attorney's fees) which the Client Plan may incur or suffer directly arising out of the lending of securities of such Client Plan to such Goldman Sachs entity. In the event that GSI or Goldman Sachs (Japan) defaults on a loan, GSTC will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, GSTC will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred. Alternatively, if such identical securities are not available on the market, GSTC will pay the Client Plan cash equal to (1) The market value of the borrowed securities as of the date they should have been returned to the Client Plan, plus (2) all the accrued financial benefits derived from the beneficial ownership of such loaned securities as of such date, plus (3) interest from such date to the date of payment.

(k) The Client Plan receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions.

(l) Prior to any Client Plan's approval of the lending of its securities to Goldman Sachs, a copy of this exemption, if granted, (and the notice of pendency) are provided to the Client Plan.

(m) Each Client Plan receives monthly reports with respect to its securities lending transactions, including, but not limited to the information described in Representation 31, so that an independent fiduciary of the Client Plan may monitor such transactions with Goldman Sachs.

(n) Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to Goldman Sachs; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with Goldman Sachs, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with Goldman Sachs, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Is neither the sponsoring employer, a member of the controlled group of corporations, the employee organization nor an affiliate;

(ii) Has full investment responsibility with respect to plan assets invested therein; and

(iii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million. (In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

(o) With respect to any calendar quarter, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans will be to unrelated borrowers.

(p) In addition to the above, all loans involving GSI and Goldman Sachs (Japan), have the following supplemental requirements:

(1) Such broker-dealer is registered as a broker-dealer with the Securities and Futures Authority of the United Kingdom (the SFA) or with the Ministry of Finance (the MOF) and the Tokyo Stock Exchange;

(2) Such broker-dealer is in compliance with all applicable provisions of Rule 15a–6 (17 CFR 240.15a–6) under the Securities Exchange Act of 1934 (the 1934 Act) which provides for foreign broker-dealers a limited exemption from United States registration requirements;

(3) All collateral is maintained in United States dollars or dollar-denominated securities or letters of credit;

(4) All collateral is held in the United States and GSTC maintains the situs of

the securities Loan Agreements in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1; and

(5) GSI or Goldman Sachs (Japan) provides Goldman Sachs a written consent to service of process in the United States for any civil action or proceeding brought in respect of the securities lending transaction, which consent provides that process may be served on such borrower by service on Goldman Sachs.

(q) Goldman Sachs and its affiliates maintain, or cause to maintain within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (r)(1) to determine whether the conditions of the exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Goldman Sachs and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than Goldman Sachs shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (r)(1).

(r)(1) Except as provided in subparagraph (r)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (q) are unconditionally available at their customary location during normal business hours by:

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC);

(ii) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(iii) Any contributing employer to any participating Client Plan or any duly authorized employee representative of such employer; and

(iv) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(r)(2) None of the persons described above in paragraphs (r)(1)(ii)–(r)(1)(iv) of this paragraph (r)(1) are authorized to examine the trade secrets of Goldman Sachs or commercial or financial information which is privileged or confidential.

**EFFECTIVE DATE:** If granted, this proposed exemption will be effective as of July 31, 1996.

*Summary of Facts and Representations*

1. *Goldman Sachs*, a New York limited partnership, is the principal operating subsidiary of The Goldman Sachs Group, L.P. (the Goldman Sachs Group), a Delaware limited partnership. Goldman Sachs is currently owned by the Goldman Sachs Group, the individual general partners of the Goldman Sachs Group and two institutional limited partners. Goldman Sachs is one of the largest full-line investment service firms in the United States. It is registered with and regulated by the SEC as a broker-dealer, is registered with and regulated by the Commodities Futures Trading Commission as a futures commission merchant, is a member of the New York Stock Exchange and other principal securities exchanges in the United States and is also a member of the National Association of Securities Dealers, Inc. As of May 30, 1997, Goldman Sachs had approximately $125.2 billion in assets and approximately $5.9 billion in consolidated capital (partners' capital and subordinated liabilities).

2. Acting as principal, Goldman Sachs actively engages in the borrowing and lending of securities, with daily outstanding loan volume averaging several billion dollars. Goldman Sachs utilizes borrowed securities to satisfy its trading requirements or to re-lend to other broker-dealers and others who need a particular security for various periods of time. All borrowings by Goldman Sachs conform to the Federal Reserve Board's Regulation T. Pursuant to Regulation T, permitted borrowing purposes include making delivery of securities in the case of short sales, failures of a broker to receive securities it is required to deliver or other similar situations.

3. *GSTC* is a wholly owned subsidiary of the Goldman Sachs Group and an affiliate of Goldman Sachs. GSTC is organized as a limited purpose trust company licensed by the New York State Banking Department in New York. GSTC provides a variety of services to its clients, including serving as a custodian, clearing agent, corporate trustee and (following the acquisition of substantially all of the assets of Boston Global Advisors, Inc. on July 31, 1996) a securities lending agent to Plans and other entities. As of December 31, 1996, GSTC had total assets of approximately $21 million.

4. *GSI*, an indirect subsidiary of the Goldman Sachs Group, is an English company registered with the Registrar of Companies for England and Wales. GSI is also an international investment banking organization. As of November 30, 1996, GSI had approximately $44 billion in total assets.

5. *Goldman Sachs (Japan)*, another indirect subsidiary of the Goldman Sachs Group, is a Japanese company that is subject to regulation by the MOF and the Tokyo Stock Exchange. As of May 31, 1997, Goldman Sachs (Japan) had total assets of approximately $7.5 billion.

6. GSI is authorized to conduct an investment business in and from the United Kingdom as a broker-dealer regulated by the SFA. Similarly, Goldman Sachs (Japan) is authorized to conduct an investment business in Japan as a broker-dealer regulated by the MOF and the Tokyo Stock Exchange. Although not registered with the United States SEC, GSI is governed by the rules, regulations and membership requirements of the SFA whereas Goldman Sachs (Japan) is governed by the rules, regulations and membership requirements of the MOF and the Tokyo Stock Exchange. In this regard, GSI and Goldman Sachs (Japan) are subject to rules relating to minimum capitalization, reporting requirements, periodic examinations, client money and safe custody rules and books and records requirements with respect to client accounts. These rules and regulations set forth by the SFA, the MOF, the Tokyo Stock Exchange and the SEC share a common objective: the protection of the investor by the regulation of the securities industry. The SFA, MOF and the Tokyo Stock Exchange rules require each firm which employs registered representatives or registered traders to have a positive tangible net worth and be able to meet its obligations as they may fall due. In addition, the SFA, MOF and the Tokyo Stock Exchange rules set forth comprehensive financial resource and reporting/disclosure rules regarding capital adequacy. Further, to demonstrate capital adequacy, the SFA rules impose reporting/disclosure requirements on broker-dealers with respect to risk management, internal controls, and transaction reporting and recordkeeping requirements to the effect that required records must be produced at the request of the SFA, the MOF and the Tokyo Stock Exchange at any time. Finally, the rules and regulations of the SFA, the MOF and the Tokyo Stock Exchange for broker-dealers impose

potential fines and penalties which establish a comprehensive disciplinary system.

7. Aside from the protections afforded by SFA, MOF and Tokyo Stock Exchange regulations, Goldman Sachs represents that GSI and Goldman Sachs (Japan) will comply with all applicable provisions of Rule 15a–6 of the 1934 Act. Rule 15a–6 provides foreign broker-dealers with a limited exemption from SEC registration requirements and, as described below, offers additional protections. Specifically, Rule 15a–6 provides an exemption from U.S. broker-dealer registration for a foreign broker-dealer that induces or attempts to induce the purchase or sale of any security (including over-the-counter equity and debt options) by a ''U.S. institutional investor'' or a ''U.S. major institutional investor,'' provided that the foreign broker-dealer, among other things, enters into these transactions through a U.S. registered broker-dealer intermediary. The term ''U.S. institutional investor,'' as defined in Rule 15a–6(b)(7), includes an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 (the Act) if (a) the investment decision is made by a plan fiduciary, as defined in section 3(21) of the Act, which is either a bank, savings and loan association, insurance company or registered investment adviser, or (b) the employee benefit plan has total assets in excess of $5 million, or (c) the employee benefit plan is a self-directed plan with investment decisions made solely by persons that are ''accredited investors'' as defined in Rule 501(a)(1) of Regulation D of the Securities Exchange Act of 1933, as amended. The term ''U.S. major institutional investor'' is defined in Rule 15a–6(b)(4) as a person that is a U.S. institutional investor that has total assets in excess of $100 million or an investment adviser registered under Section 203 of the Investment Advisers Act of 1940 that has total assets under management in excess of $100 million.

8. Goldman Sachs represents that under Rule 15a–6, a foreign broker-dealer that induces or attempts to induce the purchase or sale of any security by a U.S. institutional or major institutional investor must, among other things—

(a) Consent to service of process for any civil action brought by, or proceeding before, the SEC or any self-regulatory organization;

(b) Provide the SEC (upon request or pursuant to agreements reached between any foreign securities authority, including any foreign government, and the SEC or the U.S. Government) with any information or documents within the possession, custody or control of the foreign broker-dealer, any testimony of any such foreign associated persons, and any assistance in taking the evidence of other persons, wherever located, that the SEC requests and that relates to transactions effected pursuant to the Rule;

(c) Rely on the U.S. registered broker-dealer [14] through which the transactions with the U.S. institutional and major institutional investors are effected to (among other things):

(1) Effect the transactions, other than negotiating their terms;

(2) Issue all required confirmations and statements;

(3) As between the foreign broker-dealer and the U.S. registered broker-dealer, extend or arrange for the extension of credit in connection with the transactions;

(4) Maintain required books and records relating to the transactions, including those required by Rules 17a–3 (Records to be Made by Certain Exchange Members) and 17a–4 (Records to be Preserved by Certain Exchange Members, Brokers and Dealers) of the 1934 Act;

(5) Receive, deliver and safeguard funds and securities in connection with the transactions on behalf of the U.S. institutional investor or U.S. major institutional investor in compliance with Rule 15c3–3 of the 1934 Act (Customer Protection—Reserves and Custody of Securities); and

(6) Participate in all oral communications (e.g., telephone calls) between the foreign associated person and the U.S. institutional investor (not the U.S. major institutional investor), and accompany the foreign associated person on all visits with both U.S. institutional and major institutional investors. By virtue of this participation, the U.S. registered broker-dealer would become responsible for the content of all these communications.

9. Since July 31, 1996, GSTC has been providing securities lending services, as agent, to institutional clients. GSTC, pursuant to authorization from its client, will negotiate the terms of loans with borrowers pursuant to a client-approved form of Loan Agreement and will act as a liaison between the lender (and its custodian) and the borrower to facilitate the lending transaction. No loans of futures contracts will be involved. GSTC will have responsibility for monitoring receipt of all required collateral and marking such collateral to market daily so that adequate levels of collateral are maintained. GSTC also will monitor and evaluate on a continuing basis the performance and creditworthiness of the borrowers. GSTC may act as a custodian with respect to the client's portfolio of securities being loaned.[15] GSTC may be authorized from time to time by a client to receive and hold pledged collateral and invest cash collateral pursuant to guidelines established by the client. All of GSTC's procedures for lending securities will be designed to comply with the applicable conditions of PTEs 81–6 and PTE 82–63.[16]

10. GSTC may be retained occasionally by primary securities lending agents to provide securities lending services in a sub-agent capacity with respect to portfolio securities of clients of such primary lending agents. As securities lending sub-agent, GSTC's role under the lending transactions (i.e., negotiating the terms of loans with borrowers pursuant to a client-approved form of Loan Agreement and monitoring receipt of, and marking to market, required collateral) parallels those under lending transactions for which GSTC acts as primary lending agent on behalf of its clients.[17]

11. When a loan is collateralized with cash, the cash will be invested for the benefit and at the risk of the client, and resulting earnings (net of a rebate to the borrower) comprise the compensation to the Plan in respect of such loan. Where collateral consists of obligations other than cash, the borrower pays a fee (loan premium) directly to the lending Plan.

12. Accordingly, Goldman Sachs and GSTC request an exemption that would be effective July 31, 1996 (a) for the lending of securities owned by certain pension plans for which GSTC will serve as securities lending agent or sub-agent (referred to hereinafter as the Client Plans) [18] to Goldman Sachs,

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[14] GSI and Goldman Sachs (Japan), in lieu of relying on a U.S. broker-dealer and to the extent permitted by applicable U.S. securities law, may rely on a U.S. bank or trust company, including GSTC, to perform this role.

[15] Goldman Sachs wishes to clarify the fact that an independent fiduciary of a Client Plan may appoint GSTC or an affiliate of GSTC to manage cash collateral and to receive a reasonable and customary investment management fee, provided that the Client Plan fiduciary, after receiving full disclosure, approves the compensation arrangement, the terms of which will be described in a written agreement.

[16] PTE 81–6 provides an exemption under certain conditions from section 406(a)(1) (A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to certain broker-dealers or banks which are parties in interest.

PTE 82–63 provides an exemption under specified conditions from section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code for the payment of compensation to a plan fiduciary for services rendered in connection with loans of plan assets that are securities.

[17] As noted previously, the Department is not providing exemptive relief herein for securities lending transactions that are engaged in by primary lending agents, other than GSTC, beyond that provided by PTEs 81–6 and 82–63.

[18] For the sake of simplicity, future references to GSTC's performance of services as securities lending agent should be deemed to include its parallel performance as securities lending sub-agent and references to Client Plans should be deemed to refer to plans for which GSTC is acting as sub-agent with respect to securities lending activities, unless

affiliated U.S. registered broker-dealers of Goldman Sachs, GSI and Goldman Sachs (Japan), following disclosure of its affiliation with Goldman Sachs, and (b) for the receipt of compensation by GSTC in connection with such transactions. For each Plan, neither GSTC, Goldman Sachs nor any affiliate will have no discretionary authority or control or render investment advice over Client Plans' decisions concerning the acquisition or disposition of securities available for loan. GSTC's discretion will be limited to activities such as negotiating the terms of the securities loans with Goldman Sachs and (to the extent granted by the Client Plan fiduciary) investing any cash collateral received in respect of the loans. Because GSTC, under the proposed arrangement, would have discretion to lend Client Plan securities to Goldman Sachs, and because Goldman Sachs is an affiliate of GSTC, the lending of securities to Goldman Sachs by Client Plans for which GSTC serves as securities lending agent (or sub-agent) may be outside the scope of relief provided by PTE 81–6 and PTE 82–63. Further, loans to GSI and Goldman Sachs (Japan), affiliated foreign broker-dealers of Goldman Sachs, would be outside of the relief granted in PTE 81–6. Therefore, several safeguards, described more fully below, are incorporated in the application in order to ensure the protection of the Plan assets involved in the transactions. In addition, the applicants represent that the proposed lending program incorporates the conditions contained in PTE 81–6 and PTE 82–63 and will be in compliance with all applicable securities laws of the United States.

13. Where GSTC is the direct securities lending agent, a fiduciary of a Client Plan who is independent of GSTC and Goldman Sachs will sign a securities lending agency agreement with GSTC (the Agency Agreement) before the Client Plan participates in a securities lending program. The Agency Agreement will, among other things, describe the operation of the lending program, prescribe the form of securities Loan Agreement to be entered into on behalf of the Client Plan with borrowers, specify the securities which are available to be lent, required margin and daily marking-to-market, and provide a list of permissible borrowers, including Goldman Sachs. The Agency Agreement will also set forth the basis and rate for GSTC's compensation from the Client Plan for the performance of securities lending services.

14. The Agency Agreement will contain provisions to the effect that if Goldman Sachs is designated by the Client Plan as an approved borrower (a) the Client Plan will acknowledge that Goldman Sachs is an affiliate of GSTC and (b) GSTC will represent to the Client Plan that each and every loan made to Goldman Sachs on behalf of the Client Plan will be at market rates which are no less favorable to the Client Plan than a loan of such securities, made at the same time and under the same circumstances, to an unaffiliated borrower.

15. When GSTC is lending securities under a sub-agency arrangement, the primary lending agent will enter into a securities lending agency agreement (the Primary Lending Agreement) with a fiduciary of a Client Plan who is independent of such primary lending agent, GSTC or Goldman Sachs, before the Plan participates in the securities lending program. The primary lending agent will be unaffiliated with GSTC or Goldman Sachs. GSTC will not enter into a sub-agent arrangement unless the Primary Lending Agreement contains substantive provisions akin to those in the Agency Agreement relating to the description of the operation of the lending program, use of an approved form of Loan Agreement, specification of securities which are available to be lent, required margin and daily marking-to-market, and provision of a list of approved borrowers (which will include Goldman Sachs). The Primary Lending Agreement will specifically authorize the primary lending agent to appoint sub-agents, to facilitate its performance of securities lending agency functions. Where GSTC is to act as such a sub-agent, the Primary Lending Agreement will expressly disclose that GSTC is to so act. The Primary Lending Agreement will also set forth the basis and rate for the primary lending agent's compensation from the Client Plan for the performance of securities lending services and will authorize the primary lending agent to pay a portion of its fee, as the primary lending agent determines in its sole discretion, to any sub-agent(s) it retains pursuant to the authority granted under such agreement.

Pursuant to its authority to appoint sub-agents, the primary lending agent will enter into a securities lending sub-agency agreement (the Sub-Agency Agreement) with GSTC under which the primary lending agent will retain and authorize GSTC, as sub-agent, to lend securities of the primary lending agent's Client Plans, subject to the same terms and conditions as are specified in the Primary Lending Agreement. Thus, for example, the form of Loan Agreement will be the same as that approved by the Client Plan fiduciary in the Primary Lending Agreement and the list of permissible borrowers under the Sub-Agency Agreement (which will include Goldman Sachs) will be limited to those approved borrowers listed as such under the Primary Lending Agreement.

GSTC states that the Sub-Agency Agreement will contain provisions which are in substance comparable to those described in Representations 13 and 14 above, which would appear in an Agency Agreement in situations where GSTC is the primary lending agent. In this regard, GSTC will make the same representation in the Sub-Agency Agreement as described in Representation 9 above with respect to arm's length dealing with Goldman Sachs. The Sub-Agency Agreement will also set forth the basis and rate for GSTC's compensation to be paid by the primary lending agent.

16. In all cases, GSTC will maintain transactional and market records sufficient to assure compliance with its representation that all loans to Goldman Sachs are effectively at arm's length terms. Such records will be provided to the appropriate Client Plan fiduciary in the manner and format agreed to with the lending fiduciary, without charge to the Client Plan. A Client Plan may terminate the Agency Agreement (or the Primary Lending Agreement) at any time, without penalty to the Plan, on five business days notice. In addition, GSTC shall make and retain for six months, tape recordings evidencing all securities loan transactions with Goldman Sachs.

17. GSTC will negotiate the Loan Agreement with Goldman Sachs on behalf of Client Plans as it does with all other borrowers. An independent fiduciary of the Client Plan will approve the terms of the Loan Agreement. The Loan Agreement will specify, among other things, the right of the Client Plan to terminate a loan at any time and the Plan's rights in the event of any default by Goldman Sachs. The Loan Agreement will explain the basis for compensation to the Client Plan for lending securities to Goldman Sachs under each category of collateral. The Loan Agreement also will contain a requirement that Goldman Sachs must pay all transfer fees and transfer taxes related to the security loans.

18. Before entering into the Loan Agreement, Goldman Sachs will furnish its most recently available audited and unaudited financial statements to GSTC, and in turn, such statements will be provided to a Client Plan before the Plan is asked to approve the terms of the

otherwise indicated specifically or by the context of the reference.

Loan Agreement. The Loan Agreement will contain a requirement that Goldman Sachs must give prompt notice at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements.[19] If any such changes have taken place, GSTC will not make any further loans to Goldman Sachs unless an independent fiduciary of the Plan has approved the loan in view of the changed financial condition. Conversely, if Goldman Sachs fails to provide notice of such a change in its financial condition, such failure will trigger an event of default under the Loan Agreement.

19. As noted above, the agreement by GSTC to provide securities lending services, as agent, to a Client Plan will be embodied in the Agency Agreement. The Client Plan and GSTC will agree to the arrangement under which GSTC will be compensated for its services as lending agent, including services as custodian and manager of the cash collateral received, prior to the commencement of any lending activity. Such agreed upon fee arrangement will be set forth in the Agency Agreement and thereby will be subject to the prior written approval of a fiduciary of the Client Plan who is independent of Goldman Sachs and GSTC. Similarly, with respect to arrangements under which GSTC is acting as securities lending sub-agent, the agreed upon fee arrangement of the primary lending agent will be set forth in the Primary Lending Agreement, and such agreement will specifically authorize the primary lending agent to pay a portion of such fee, as the primary lending agent determines in its sole discretion, to any sub-agent, including GSTC, which is to provide securities lending services to the Plan.[20] The Client Plan will be provided with any reasonably available information which is necessary for the Plan fiduciary to make a determination whether to enter into or continue to participate under the Agency Agreement (or the Primary Lending Agreement) and any other reasonably available information which the Plan fiduciary may reasonably request.

20. Each time a Plan lends securities to Goldman Sachs pursuant to the Loan Agreement, GSTC will reflect in its records the material terms of the loan, including the securities to be loaned, the required level of collateral, and the fee or rebate payable. The terms of the fee or rebate payable for each loan will be at least as favorable to the Client Plan as those of a comparable arm's length transaction between unrelated parties.

21. The Client Plan will be entitled to the equivalent of all interest, dividends and distributions on the loaned securities during the loan period. The Loan Agreement will provide that the Client Plan may terminate any loan at any time. Upon a termination, Goldman Sachs will be contractually obligated to return the loaned securities to the Client Plan within five business days of notification (or such longer period of time permitted pursuant to a class exemption). If Goldman Sachs fails to return the securities within the designated time, the Client Plan will have the right under the Loan Agreement to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price and any other expenses of the Plan associated with the sale and/or purchase.

22. GSTC will establish each day a written schedule of lending fees[21] and rebate rates[22] in order to assure uniformity of treatment among borrowing brokers and to limit the discretion GSTC would have in negotiating securities loans to Goldman Sachs. Loans to all borrowers of a given security on that day will be made at rates or lending fees on the relevant daily schedules or at rates or lending fees which may be more advantageous to the Client Plans. It is represented that in no case will loans be made to Goldman Sachs at rates or lending fees that are less advantageous to the Client Plans than those on the schedule. The daily schedule of rebate rates will be based on the current value of the clients' reinvestment vehicles and on market conditions, as reflected by demand for securities by borrowers other than Goldman Sachs. As with rebate rates, the daily schedule of lending fees will also be based on market conditions, as reflected by demand for securities by borrowers other than Goldman Sachs, and will generally track the rebate rates with respect to the same security or class of security.

23. The rebate rates (in respect of cash-collateralized loans made by Client Plans) which are established will also take into account the potential demand for loaned securities, the applicable benchmark cost of funds indices (typically, Federal Funds, overnight repo rate or the like) and anticipated investment return on overnight investments which are permitted by the relevant Client Plan fiduciary. Further, the lending fees (in respect of loans made by Client Plans collateralized by other than cash) which are established will be set daily to reflect conditions as influenced by potential market demand.

24. GSTC will negotiate rebate rates for cash collateral payable to each borrower, including Goldman Sachs, on behalf of a Client Plan. Where, for example, cash collateral derived from an overnight loan is intended to be invested in a generic repurchase

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19 With respect to capital adequacy rules for brokerage firms domiciled in the United States, including Goldman Sachs, it is represented that such firms are subject to the capital adequacy rules of their respective regulatory agencies, i.e., the SEC, the New York Stock Exchange, the National Association of Securities Dealers and other self-regulatory authorities. If these brokerage firms fail to meet such requirements, they are subject to fines, penalties and possibly more stringent sanctions.

As for GSI and Goldman Sachs (Japan), which are subject to the capital adequacy provisions of their respective regulatory authorities, it is represented that such rules require GSI and Goldman Sachs (Japan) to maintain, at all times, financial resources in excess of its financial resources requirement (the Financial Resources Requirement). For this purpose, financial resources include equity capital, approved subordinated debt and retained earnings, less deductions for illiquid assets. The Financial Resources Requirement includes capital requirements for market risk, credit risk, foreign exchange risk and large exposures. SFA, MOF and Tokyo Stock Exchange rules require that if a firm's financial resources fall below 120 percent with respect to the SFA and 150 percent with respect to the MOF and the Tokyo Stock Exchange, of its Financial Resources Requirement, the SFA, the MOF or the Tokyo Stock Exchange must be notified so that it can examine the terms of the firm's financial position and require an infusion of more capital, if needed. In addition, a breach of the requirement to maintain financial resources in excess of the Financial Resources Requirement may lead to sanctions by the SFA, the MOF or the Tokyo Stock Exchange. If the breach is not promptly resolved, the SFA, the MOF or the Tokyo Stock Exchange may restrict the firm's activities.

20 The foregoing provisions describe arrangements comparable to conditions (c) and (d) of PTE 82–63 which require that the payment of compensation to a ''lending fiduciary'' is made under a written instrument and is subject to prior written authorization of an independent ''authorizing fiduciary.'' In the event that a commingled investment fund will participate in the securities lending program, the special rule applicable to such funds concerning the authorization of the compensation arrangement set forth in condition (f) of PTE 82–63 will be satisfied.

21 GSTC will adopt minimum daily lending fees for non-cash collateral payable by Goldman Sachs to GSTC on behalf of a Client Plan. GSTC will submit the method for determining such minimum daily lending fees to an independent fiduciary of the Client Plan for approval before initially lending any securities to Goldman Sachs on behalf of such Client Plan.

22 GSTC will adopt separate maximum daily rebate rates with respect to securities loans collateralized with cash collateral. Such rebate rates will be based upon an objective methodology which takes into account several factors, including potential demand for loaned securities, the applicable benchmark cost of fund indices, and anticipated investment return on overnight investments permitted by the Client Plan's independent fiduciary. GSTC will submit the method for determining such maximum daily rebate rates to such fiduciary before initially lending any securities to Goldman Sachs on behalf of the Client Plan.

agreement, any rebate fee determined with respect to an overnight repurchase agreement benchmark will be set below the applicable ''ask'' quotation therefor. Where cash collateral is derived from a loan with an expected maturity date (term loan) and is intended to be invested in instruments with similar maturities, the maximum rebate fee will be less than the expected investment return (assuming no investment default). With respect to any loan to Goldman Sachs, GSTC will never negotiate a rebate rate with respect to such loan which would be expected to produce a zero or negative return to the Client Plan (assuming no default on the investments related to the cash collateral from such loan where GSTC has investment discretion over the cash collateral). GSTC represents that the written rebate rate established daily for cash collateral under loans negotiated with Goldman Sachs will not exceed the rebate rate which would be paid to a similarly situated unrelated borrower with respect to a comparable securities lending transaction. GSTC will disclose the method for determining the maximum daily rebate rate as described above to an independent fiduciary of a Client Plan for approval before lending any securities to Goldman Sachs on behalf of the Plan.

25. For collateral other than cash, the applicable loan fee in respect of any outstanding loan is reviewed daily for competitiveness and adjusted, where necessary, to reflect market terms and conditions (see Representation 27). With respect to any calendar quarter, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans will be to unrelated borrowers so the competitiveness of the loan fee will be tested in the marketplace. Accordingly, loans to Goldman Sachs should result in competitive rate income to the lending Client Plan. At all times, GSTC will effect loans in a prudent and diversified manner. While GSTC will normally lend securities to requesting borrowers on a ''first come, first served'' basis, as a means of assuring uniformity of treatment among borrowers, it should be recognized that in some cases it may not be possible to adhere to a ''first come, first served'' allocation. This can occur, for instance where (a) the credit limit established for such borrower by GSTC and/or the Client Plan has already been satisfied; (b) the ''first in line'' borrower is not approved as a borrower by the particular Client Plan whose securities are sought to be borrowed; and (c) the ''first in line'' borrower cannot be ascertained, as an operational matter, because several borrowers spoke to different GSTC representatives at or about the same time with respect to the same security.[23] In situations (a) and (b), loans would normally be effected with the ''second in line.'' In situation (c), securities would be allocated equitably among all eligible borrowers.

26. The method of determining the daily securities lending rates (fees and rebates), the minimum lending fees payable by Goldman Sachs and the maximum rebate payable to Goldman Sachs will be specified in an exhibit attached to the Agency Agreement to be executed between the independent fiduciary of the Client Plan and GSTC in cases where GSTC is the direct securities lending agent.

27. If GSTC reduces the lending fee or increases the rebate rate on any outstanding loan to an affiliated borrower (except for any change resulting from a change in the value of any third party independent index with respect to which the fee or rebate is calculated), GSTC, by the close of business on the date of such adjustment, will provide the independent fiduciary of the Client Plan with notice that it has reduced such fee or increased the rebate rate to such affiliated borrower and that the Client Plan may terminate such loan at any time. In addition, GSTC will provide the independent fiduciary of the Client Plan with such information as the fiduciary may reasonably request regarding such adjustment.

28. Under the Loan Agreement, Goldman Sachs, as borrower, will agree to indemnify and hold harmless the applicable Client Plan (including the sponsor and fiduciaries of such Client Plan) from any and all reasonably foreseeable damages, losses, liabilities, costs and expenses (including attorney's fees) which the Client Plan may incur or suffer arising in any way from the use by Goldman Sachs of the loaned securities or any failure of Goldman Sachs to deliver loaned securities in accordance with the provisions of the Loan Agreement or to otherwise comply with the terms of the Loan Agreement except to the extent that such losses or damages are caused by the Client Plan's negligence. Under certain circumstances, GSTC, as lending agent, also may provide customary indemnities to lending Plans respecting loans made by it as the securities lending agent or, alternatively, procure such an indemnity from another Goldman Sachs affiliate. Further, under certain circumstances, a Goldman Sachs affiliate may guarantee the obligations of GSTC.

In the event GSI or Goldman Sachs (Japan) defaults on a loan, GSTC will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, GSTC will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred. Alternatively, if such identical securities are not available on the market, GSTC will pay the Client Plan cash equal to the market value[24] of the borrowed securities as of the date they should have been returned to the Client Plan plus all interest and accrued financial benefits derived from the beneficial ownership of such loaned securities. Under such circumstances, GSTC will pay the Client Plan an amount equal to (a) the value of the securities as of the date such securities should have been returned to the Client Plan plus (b) all of the accrued financial benefits derived from the beneficial ownership of such loan securities as of such date, plus (c) interest from such date through the date of payment.

29. The Client Plan will receive collateral from Goldman Sachs by physical delivery, book entry in a U.S. securities depository, wire transfer or similar means by the close of business on or before the day the loaned securities are delivered to Goldman Sachs. The collateral will consist of cash, securities issued or guaranteed by the U.S. Government or its agencies or irrevocable U.S. bank letters of credit (issued by a person other than Goldman Sachs or its affiliates) or such other types of collateral which might be permitted by the Department under a class exemption. The market value of the collateral on the close of business on the day preceding the day of the loan will be at least 102 percent of the market value of the loaned securities. The Loan Agreement will give the Client Plan a

[23] It is represented that the ''first come, first served'' allocation would not apply where GSTC is not acting as a securities lending agent, but rather is acting as, for example, a custodian to a Client Plan that has entered into an exclusive arrangement with the borrower. See PTE 92–78 (57 FR 45837, October 5, 1992) issued to Goldman Sachs and GSTC. In that circumstance, Goldman Sachs as borrower is choosing from whom to borrow and GSTC has no right or obligation to lend Goldman Sachs the securities from other clients or lend the securities subject to such exclusive arrangement to other borrowers.

[24] For purposes of this proposed exemption, the ''market value'' of securities, as of any date, shall be determined on the basis of the closing prices therefor as of the trading date (for the principal market in which the securities are traded) immediately preceding the day of valuation, such determination to be made by the independent pricing source identified to Goldman Sachs by the Client Plan upon the request of Goldman Sachs. Market value shall include accrued interest in the case of debt securities.

continuing security interest in and a lien on the collateral. GSTC will monitor the level of the collateral daily. If the market value of the collateral falls below 100 percent (or such greater percentage as agreed to by the parties) of that of the loaned securities, GSTC will require Goldman Sachs to deliver by the close of business the next day sufficient additional collateral to bring the level back to at least 102 percent.

30. With respect to loans involving GSI and Goldman Sachs (Japan), the following additional conditions will be applicable: (a) all collateral will be maintained in United States dollars or dollar-denominated securities or letters of credit; (b) all collateral is held in the United States and GSTC maintains the situs of the securities loan agreements in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1; and (c) GSI or Goldman Sachs (Japan) provides Goldman Sachs a written consent to service of process in the United States for any civil action or proceeding brought in respect of the securities lending transaction, which consent provides that process may be served on such borrower by service on Goldman Sachs.

31. Each Client Plan participating in the lending program will be sent a monthly transaction report. The monthly report will provide a list of all security loans outstanding and closed for a specified period. The report will identify for each open loan position, the securities involved, the value of the security for collateralization purposes, the current value of the collateral, the rebate or loan premium (as the case may be) at which the security is loaned, and the number of days the security has been on loan. In addition, if requested by the lending customer, GSTC will provide daily confirmations of securities lending transactions, and, with respect to monthly reports, if requested by the customer, GSTC will provide weekly or daily reports, setting forth for each transaction made or outstanding during the relevant reporting period, the loaned securities, the related collateral, rebates and loan premiums and such other information in such format as shall be agreed to by the parties. Further, prior to a Client Plan's approval of a securities lending program, Goldman Sachs will provide a Plan fiduciary with copies of the proposed exemption and notice granting the exemption.

32. In order to provide the means for monitoring lending activity, the monthly report will compare rates on loans by the Client Plans to Goldman Sachs with loans to other brokers as well as the level of collateral on the loans. In this regard, the monthly report will show, on a daily basis, the market value of all outstanding security loans to Goldman Sachs and to other borrowers. In addition, the monthly report will state the daily fees where collateral other than cash is utilized and will specify the details used to establish the daily rebate payable to all brokers where cash is used as collateral. The monthly report also will state, on a daily basis, the rates at which securities are loaned to Goldman Sachs compared with those at which securities are loaned to other brokers. This statement will give an independent fiduciary information which can be compared to that contained in the daily rate schedule.

33. Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to Goldman Sachs. In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (i.e., the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under the Plan Asset Regulation), which entity is engaged in securities lending arrangements with Goldman Sachs, the foregoing $50 million requirement will be satisfied if such trust or other entity has aggregate assets which are in excess of $50 million. However, if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary must have total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (i.e., the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with Goldman Sachs, the foregoing $50 million requirement will be satisfied if such trust or other entity has aggregate assets which are in excess of $50 million. However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity (a) Must not be the sponsoring employer, a member of the controlled group of corporations, the employee organization or an affiliate; (b) must have full investment responsibility with respect to plan assets invested therein;[25] and (c) must have total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

In addition, none of the entities described above must be formed for the sole purpose of making loans of securities.

34. In summary, the applicants represent that the described transactions have satisfied or will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The form of the Loan Agreement pursuant to which any loan is effected has been or will be approved by a fiduciary of the Client Plan who is independent of Goldman Sachs and GSTC before a Client Plan lends any securities to Goldman Sachs.

(b) The lending arrangements (1) have permitted or will permit the Client Plans to lend to Goldman Sachs, (2) have enabled or will enable the Plans to diversify the list of eligible borrowers and earn additional income from the loaned securities on a secured basis, while continuing to receive any dividends, interest payments and other distributions due on those securities.

(c) The Client Plan have received or will receive sufficient information concerning Goldman Sachs's financial condition before the Plan lends any securities to Goldman Sachs.

(d) The collateral on each loan to Goldman Sachs initially has been and will be at least 102 percent of the market value of the loaned securities, which is in excess of the 100 percent collateral required under PTE 81–6, and has been and will be monitored daily by GSTC.

(e) The Client Plans have received and will receive a monthly report which provides an independent fiduciary of the Client Plans with information on loan activity, fees, loan return/yield and the rates on loans to Goldman Sachs as compared with loans to other brokers and the level of collateral on the loans.

(f) GSTC, Goldman Sachs nor any affiliate has or will have discretionary authority or control over the Plan's acquisition or disposition of securities available for loan.

[25] For purposes of this proposed exemption, the term ''full investment responsibility'' means that the fiduciary responsible for making investment decisions on behalf of the group trust or other form of entity, has and exercises discretionary management authority over all of the assets of the group trust or other plan assets entity.

(g) The terms of the fee or rebate payable for each loan has been and will be at least as favorable to the Plans as those of a comparable arm's length transaction between unrelated parties.

(h) All of the procedures under the transactions have conformed or will conform to the applicable provisions of PTE 81–6 and PTE 82–63 and also have been and will be in compliance with the applicable securities laws of the United States, the United Kingdom and Japan.

*Notice To Interested Persons*

Notice of the proposed exemption will be provided to interested persons within 5 days of the publication of the notice of proposed exemption in the **Federal Register**. Such notice will be given to Plans that have outstanding securities loans with Goldman Sachs. The notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the proposed exemption. Written comments and hearing requests are due within 35 days of the publication of the proposed exemption in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 11th day of February, 1998.

**Ivan Strasfeld,**

*Director of Exemption Determinations, Pension and Welfare Benefits Administration U.S. Department of Labor.*

[FR Doc. 98–3987 Filed 2–18–98; 8:45 am]

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

### Prohibited Transaction Exemption 98–07; Exemption Application No. D–10236, et al.; Grant of Individual Exemptions; Equitable Life Assurance Society

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

**Statutory Findings**

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

**The Equitable Life Assurance Society of the United States (Equitable), Located in New York, New York**

[Prohibited Transaction Exemption 98–07; Exemption Application No. D–10236]

*Exemption*

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) The leasing of 13,086 square feet of office space and 6,650 square feet of parking space by Equitable Real Estate Investment Management, Inc. (ERE) until June 30, 2002 (the Tower 1 Lease); and (2) the leasing of 5,821 square feet of office space and 3584 square feet of parking space by ERE's subsidiary, Compass Management and Leasing, Inc. (Compass) until August 31, 1999 (the Tower 2 Leases), in office buildings located in Orange County, California, that will be held by the Equitable Separate Account No. 8, also known as

the Prime Property Fund (the PPF) and to the 1996 renewal of the original leases provided that the following conditions are met: (a) the renewal of the leases and the terms of the leases were reviewed, negotiated and approved by a qualified independent fiduciary to PPF; (b) the qualified independent fiduciary determined that the terms of the transactions reflect fair market value and are at least as favorable to PPF as the terms would have been in arm's length transactions between unrelated parties; and (c) the independent fiduciary will continue to monitor the leases on behalf of the PPF.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 19, 1997 at 62 FR 66669.

**EFFECTIVE DATE OF EXEMPTION:** This exemption has an effective date of March 15, 1996. This exemption will expire for the Tower 2 Leases, on August 31, 1999 and for the Tower 1 Lease, on June 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Wendy McColough of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

**PNC Capital Markets, Inc. (PNC), Located in Pittsburgh, Pennsylvania**

[Prohibited Transaction Exemption 98–08; Exemption Application No. D–10521]

*Exemption*

I. Transactions

A. Effective October 21, 1997, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective October 21, 1997, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) the plan is not an Excluded Plan;

(ii) solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) a plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. Effective October 21, 1997, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) the pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in section III.S.

D. Effective October 21, 1997, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

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[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating from a rating agency (as defined in section III.W.) at the time of such acquisition that is in one of the three highest generic rating categories;

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933; and

(7) In the event that the obligations used to fund a trust have not all been transferred to the trust on the closing date, additional obligations as specified in subsection III.B(1) may be transferred to the trust during the pre-funding period (as defined in section III.BB.) in exchange for amounts credited to the pre-funding account (as defined in section III.Z.), provided that:

(a) The pre-funding limit (as defined in section III.AA.) is not exceeded;

(b) All such additional obligations meet the same terms and conditions for eligibility as those of the original obligations used to create the trust corpus (as described in the prospectus or private placement memorandum and/or pooling and servicing agreement for such certificates), which terms and conditions have been approved by a rating agency. Notwithstanding the foregoing, the terms and conditions for determining the eligibility of an obligation may be changed if such changes receive prior approval either by a majority of the outstanding certificateholders or by a rating agency;

(c) The transfer of such additional obligations to the trust during the pre-funding period does not result in the certificates receiving a lower credit rating from a rating agency upon termination of the pre-funding period than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(d) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations in the trust at the end of the pre-funding period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the trust on the closing date;

(e) In order to ensure that the characteristics of the receivables actually acquired during the pre-funding period are substantially similar to those which were acquired as of the closing date, the characteristics of the additional obligations will either be monitored by a credit support provider or other insurance provider which is independent of the sponsor, or an independent accountant retained by the sponsor will provide the sponsor with a letter (with copies provided to the rating agency, the underwriter and the trustees) stating whether or not the characteristics of the additional obligations conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or pooling and servicing agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the closing date;

(f) The pre-funding period shall be described in the prospectus or private placement memorandum provided to investing plans;

(g) The trustee of the trust (or any agent with which the trustee contracts to provide trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, will enforce all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. *Certificate* means:

(1) a certificate—

(a) that represents a beneficial ownership interest in the assets of a trust; and

(b) that entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) a certificate denominated as a debt instrument—

(a) that represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) or a Financial Asset Securitization Investment Trust (FASIT) within the meaning of section 860D(a) or section 860L, respectively, of the Code; and

(b) that is issued by and is an obligation of a trust;

with respect to certificates defined in (1) and (2) above for which PNC or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include

certificates denominated as debt which are issued by a trust.

B. *Trust* means an investment pool, the corpus of which is held in trust and consists solely of:

(1) (a) secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association); and/or

(b) secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T); and/or

(c) obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property); and/or

(d) obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U); and/or

(e) ''guaranteed governmental mortgage pool certificates,'' as defined in 29 CFR 2510.3–101(i)(2); and/or

(f) fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) property which had secured any of the obligations described in subsection B.(1);

(3) (a) undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders; and/or

(b) cash or investments made therewith which are credited to an account to provide payments to certificateholders pursuant to any yield supplement agreement or similar yield maintenance arrangement to supplement the interest rates otherwise payable on obligations described in subsection III.B.(1) held in the trust, provided that such arrangements do not involve swap agreements or other notional principal contracts; and/or

(c) cash transferred to the trust on the closing date and permitted investments made therewith which:

(i) are credited to a pre-funding account established to purchase additional obligations with respect to which the conditions set forth in clauses (a)–(g) of subsection II.A.(7) are met and/or;

(ii) are credited to a capitalized interest account (as defined in section III.X.); and

(iii) are held in the trust for a period ending no later than the first distribution date to certificateholders occurring after the end of the pre-funding period,

For purposes of this clause (c) of subsection III.B.(3), the term *permitted investments* means investments which are either: (i) direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by the United States, or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (ii) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by a rating agency; are described in the pooling and servicing agreement; and are permitted by the rating agency.

(4) rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship, yield supplement agreements described in clause (b) of subsection III.B.(3) and other credit support arrangements with respect to any obligations described in subsection III.B.(1).

Notwithstanding the foregoing, the term *trust* does not include any investment pool unless: (i) The investment pool consists only of assets of the type described in clauses (a) through (f) of subsection III.B.(1) which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by a rating agency for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *Underwriter* means:

(1) PNC;

(2) any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with PNC; or

(3) any member of an underwriting syndicate or selling group of which PNC or a person described in (2) is a manager or co-manager with respect to the certificates.

D. *Sponsor* means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. *Master Servicer* means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. *Subservicer* means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. *Servicer* means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. *Trustee* means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. *Insurer* means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *Obligor* means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, ''obligor'' shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. *Excluded Plan* means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. *Restricted Group* with respect to a class of certificates means:

(1) each underwriter;

(2) each insurer;

(3) the sponsor;

(4) the trustee;

(5) each servicer;

(6) any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) any affiliate of a person described in (1)–(6) above.

M. *Affiliate* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section

3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *Control* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be ''independent'' of another person only if:

(1) such person is not an affiliate of that other person; and

(2) the other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *Sale* includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *Forward delivery commitment* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. *Reasonable compensation* has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. *Qualified Administrative Fee* means a fee which meets the following criteria:

(1) the fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) the servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) the ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) the amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. *Qualified Equipment Note Secured By A Lease* means an equipment note:

(1) which is secured by equipment which is leased;

(2) which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) with respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. *Qualified Motor Vehicle Lease* means a lease of a motor vehicle where:

(1) the trust owns or holds a security interest in the lease;

(2) the trust holds a security interest in the leased motor vehicle; and

(3) the trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as would be the case if the trust consisted of motor vehicle installment loan contracts.

V. *Pooling and Servicing Agreement* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, ''Pooling and Servicing Agreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

W. *Rating Agency* means Standard & Poor's Structured Rating Group, Moody's Investors Service, Inc., Duff & Phelps Credit Rating Co. or Fitch Investors Service, L.P.;

X. *Capitalized Interest Account* means a trust account: (i) which is established to compensate certificateholders for shortfalls, if any, between investment earnings on the pre-funding account and the pass-through rate payable under the certificates; and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

Y. *Closing Date* means the date the trust is formed, the certificates are first issued and the trust's assets (other than those additional obligations which are to be funded from the pre-funding account pursuant to subsection II.A.(7)) are transferred to the trust.

Z. *Pre-Funding Account* means a trust account: (i) which is established to purchase additional obligations, which obligations meet the conditions set forth in clauses (a)–(g) of subsection II.A.(7); and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

AA. *Pre-Funding Limit* means a percentage or ratio of the amount allocated to the pre-funding account, as compared to the total principal amount of the certificates being offered which is less than or equal to 25 percent.

BB. *Pre-Funding Period* means the period commencing on the closing date and ending no later than the earliest to occur of: (i) The date the amount on deposit in the pre-funding account is less than the minimum dollar amount specified in the pooling and servicing agreement; (ii) the date on which an event of default occurs under the pooling and servicing agreement; or (iii) the date which is the later of three months or 90 days after the closing date.

CC. *PNC* means PNC Capital Markets, Inc. and its affiliates.

The Department notes that this exemption is included within the meaning of the term ''Underwriter Exemption'' as it is defined in section V(h) of Prohibited Transaction Exemption 95–60 (60 FR 35925, July 12, 1995), the Class Exemption for Certain Transactions Involving Insurance Company General Accounts, at 35932.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 19, 1997 at 62 FR 66672.

**FOR FURTHER INFORMATION CONTACT:** Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

**Jeffrey R. Light, M.D., Inc. Profit Sharing Plan (the Plan), Located in Garden Grove, CA;**

[Prohibited Transaction Exemption No. 98–09; Application No. D–10530]

*Exemption*

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) by the individual, self-directed account of Jeffrey R. Light, M.D. within the Plan (the Account) of two parcels of real property (the Property) to Jeffrey R. Light, M.D. (Dr. Light), a party in interest with respect to the Plan; provided the following conditions are satisfied:

(A) The terms and conditions of the transaction are no less favorable to the Plan than those which the Plan would receive in an arm's-length transaction with an unrelated party;

(B) The Sale is a one-time transaction for cash;

(C) The Plan does not incur any expenses from the Sale; and

(D) The Plan receives as consideration from the Sale no less than the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on December 19, 1997, at 62 FR 66684.

**FOR FURTHER INFORMATION CONTACT:** Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

*General Information*

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 11th day of February, 1998.

**Ivan Strasfeld,**

*Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.*

[FR Doc. 98–3986 Filed 2–18–98; 8:45 am]

**BILLING CODE 4510–29–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice.

**SUMMARY:** NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used to evaluate requests for access to records whose use has been restricted because they contain highly personal information. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be received on or before April 20, 1998 to be assured of consideration.

**ADDRESSES:** Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Statistical Research in Archival Records Containing Personal Information.

*OMB number:* 3095–0002.
*Agency form number:* None.
*Type of review:* Regular.
*Affected public:* Individuals.
*Estimated number of respondents:* 1.
*Estimated time per response:* 7 hours.
*Frequency of response:* On occasion.
*Estimated total annual burden hours:* 7 hours.

Abstract: The information collection is prescribed by 36 CFR 1256.16 and 36 CFR 1256.4. Respondents are researchers who wish to do biomedical statistical research in archival records containing highly personal information. NARA needs the information to evaluate requests for access to ensure that the requester meets the criteria in 36 CFR 1256.4 and that the proper safeguards will be made to protect the information.

Dated: February 11, 1998.

**L. Reynolds Cahoon,**

*Assistant Archivist for Human Resources and Information Services.*

[FR Doc. 98–4116 Filed 2–18–98; 8:45 am]

**BILLING CODE 7515–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–293]**

### Boston Edison Company (Pilgrim Nuclear Power Station); Order Approving Application Regarding the Corporate Restructuring of Boston Edison Company by Establishment of a Holding Company

**I**

Boston Edison Company (BECo) is sole owner of the Pilgrim Nuclear Power Station (Pilgrim). BECo holds Facility Operating License No. DPR–35 issued by the U.S. Atomic Energy Commission pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR part 50) on June 8, 1972. Under this license, BECo has the authority to own and operate Pilgrim. Pilgrim is located in Plymouth County, Massachusetts.

**II**

By an application dated June 9, 1997, BECo requested that the Commission approve under 10 CFR 50.80 the transfer of control of the license that would result from a proposed corporate restructuring of BECo. Under the restructuring, a holding company under the name ''BEC Energy'' will be created of which BECo would become a wholly owned subsidiary. The holders of BECo common stock would automatically become holders of common stock of the

new parent company on a share-for-share basis, according to the application. Notice of this application for consent was published in the **Federal Register** on December 12, 1997 (62 FR 65448); and an Environmental Assessment and a Finding of No Significant Impact was published in the **Federal Register** on December 15, 1997 (62 FR 65716).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license unless the Commission shall give its consent in writing. Upon review of the information submitted in the application dated June 9, 1997, the staff of the U.S. Nuclear Regulatory Commission has determined that the proposed restructuring of BECo will not affect the qualifications of BECo as holder of the license for Pilgrim and that the transfer of control of the license, to the extent effected by the restructuring of BECo, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated February 11, 1998.

**III**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* That the Commission approves the application regarding the proposed restructuring of BECo subject to the following: (1) BECo shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from BECo to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of BECo's consolidated net utility plant, as recorded on BECo's books of account, and (2) should the restructuring of BECo not be completed by December 31, 1998, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

**IV**

By March 23, 1998, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, D.C. by the above date. Copies should be also sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to William S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, Boston, MA 02199, Assistant General Counsel for BECo.

For further details with respect to this action, see the application for approval regarding the corporate restructuring dated June 9, 1997, and the safety evaluation dated February 11, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts.

Dated at Rockville, Maryland, this 11th day of February 1998.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–4148 Filed 2–18–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Docket Nos. 50–269, 50–270, AND 50–287

### Duke Energy Corporation; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Duke Energy Corporation (the licensee) to withdraw its September 4, 1997, application for proposed amendments to Facility Operating License Nos. DPR–38, DPR–47, and DPR–55 for the Oconee Nuclear Station Units 1, 2, and 3, respectively, located in Seneca, South Carolina.

The proposed amendments would have revised the Technical Specifications (TS) pertaining to the justification of the acceptability of the current TS for the High Pressure Injection (HPI) System and allowing operation at reduced power levels with two HPI pumps. The submittal was made because of the potential for an extended shutdown to repair the 3B HPI pump that existed at the time the amendments were proposed. The 3B pump has been repaired.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on September 24, 1997 (62 FR 50003). However, by letter dated February 9, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated September 4, 1997, and the licensee's letter dated February 9, 1998, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 12th day of February 1998.

For the Nuclear Regulatory Commission.

**David E. LaBarge,**

*Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–4147 Filed 2–18–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on March 2, 1998, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would

constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Monday, March 2, 1998—12:00 Noon Until 1:00 p.m.**

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the qualifications of candidates for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 12, 1998.

**Medhat M. El-Zeftawy,**

*Acting Chief, Nuclear Reactors Branch.*

[FR Doc. 98–4144 Filed 2–18–98; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on March 5–6, 1998, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, November 20, 1997 (62 FR 62079).

**Thursday, March 5, 1998**

*8:30 A.M.—8:45 A.M.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

*8:45 A.M.—10:30 A.M.: Strategy for the Development of the NRC Research Program* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, Office of Nuclear Regulatory Research (RES), concerning the systematic research process, methods used to identify research topics and agency goals and programs that require support.

*10:50 A.M.—12:00 Noon: Prioritization of Research Needs* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC RES staff regarding the methods used to prioritize research needs. Validation and justification of the prioritization methods should be provided.

*1:00 P.M.—2:00 P.M.: Core Capabilities* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC RES staff regarding the expertise and core capabilities needed to respond to future needs; explain how these needs were identified and how they affect the research program.

*2:00 P.M.—3:00 P.M.: Confirmatory Research Activities* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC RES staff regarding the processing of user need requests and identification of the research activities that are confirmatory in nature.

*3:15 P.M.—5:00 P.M.: Anticipatory Activities and Severe Accident Research* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC RES staff regarding the identification of each research activity that is anticipatory in nature. The Committee will also discuss the current activities and remaining needs especially in light of the drive toward risk-informed regulation and the estimation of LERF.

*5:00 P.M.—5:30 P.M.: Committee Discussion Period* (Open)—The Committee will discuss significant observations, questions and topics needing further exploration.

**Friday, March 6, 1998**

*8:30 A.M.—8:35 A.M.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

*8:35 A.M.—9:30 A.M.: IPE and IPEEE Projects* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC RES staff regarding what utility can be made of the IPE and IPEEE results.

*9:30 A.M.—10:30 A.M.: Meeting with Commissioner Nils J. Diaz* (Open)—The Committee will discuss items of mutual interests with Commissioner Nils J. Diaz.

*10:50 A.M.—12:00 Noon: Deferred Research* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC RES staff regarding the risk significant and vulnerabilities of agencies programs and goals and research that is needed but is not being done.

*1:00 P.M.—7:00 P.M.: Discussion of Research needs by the appropriate Subcommittee Chairmen.*

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 4, 1997 (62 FR 46782). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Dr. Medhat M. El-Zeftawy, Acting Chief of the Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Acting Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Acting Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the

Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Dr. Medhat M. El-Zeftawy, Acting Chief of the Nuclear Reactors Branch (telephone 301/415–6889), between 7:30 A.M. and 4:15 P.M. EST.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Dated: February 12, 1998.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 98–4145 Filed 2–18–98; 8:45 am]

BILLING CODE 7590–01–P

## POSTAL SERVICE

### United States Postal Service Board of Governors; Sunshine Act Meeting

**TIMES AND DATES:** 1:00 p.m., Monday, March 2, 1998; 8:30 a.m., Tuesday, March 3, 1998.

**PLACE:** Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W. in the Benjamin Franklin Room.

**STATUS:** March 2 (Closed); March 3 (Open).

**MATTERS TO BE CONSIDERED:**

Monday, March 2—1:00 p.m. (Closed)

1. Compensation issues.
2. Status Report on Rate Case R97–1.
3. Report on the Tray Management System.
4. Personnel issues.

Tuesday, March 3—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, February 2–3, 1998.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Alternative Dispute Resolution.
4. Tentative Agenda for the April 6–7, 1998, meeting in Washington, D.C.

**CONTACT PERSON FOR MORE INFORMATION:** Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

**Thomas J. Koerber,**

*Secretary.*

[FR Doc. 98–4381 Filed 2–17–98; 3:28 pm]

BILLING CODE 7710–12–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 35–26825]**

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

February 12, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 9, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### Entergy Corporation, et al. (70–9123)

Entergy Corporation ("Entergy"),[1] of 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, and its wholly owned nonutility subsidiary companies, Entergy Enterprises, Inc.,[2] Entergy Global Power Operations Corporation and Entergy Power Operations U.S., Inc.,[3] each of 4 Park Plaza, Irvine, California 92614, Entergy Power, Inc.[4] and Entergy Power Marketing Corp.,[5] each of 10055 Grogan's Mill Road, The Woodlands, Texas 77380, Entergy Integrated Solutions, Inc.,[6] 4740 Shelby Drive, Memphis, Tennessee 38118, Entergy Nuclear, Inc.,[7] 1340 Echelon

[1] Through its five domestic retail public utility companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc. and Entergy New Orleans, Inc. (collectively, "System Operating Companies"), Entergy provides electric service to approximately 2.4 million customers located in the states of Arkansas, Louisiana, Mississippi, Tennessee and Texas, and retail gas service in portions of Louisiana.

[2] By Commission order dated June 30, 1995, Holding Co. Act Release No. 26322 ("June 1995 Order") Entergy Enterprises, Inc. ("EEI") is authorized, among other things, to engage in development activities with respect to potential investments by Entergy in various energy, energy-related and other nonutility businesses. The June 1995 Order also authorized EEI to provide various management, administrative and support services to certain of its associate companies, other than Excepted Companies, as defined below, to provide consulting services to associate and nonassociates companies and to provide operations and maintenance services ("O&M Services") directly, or indirectly, through other subsidiaries of Entergy ("O&M Subs"), to nonassociate companies and to certain of its associate companies, using the skills and resources of other Entergy system companies.

[3] Entergy Global Power Operations Corporation and its wholly owned subsidiary, Entergy Power Operations U.S., Inc., were recently organized by Entergy as O&M Subs under the June 1995 Order. Applicants represent that to date, neither company has entered into any agreements for the provision of O&M services.

[4] Since 1990, Entergy Power, Inc. ("EPI") has been engaged in the business of marketing and selling its capacity and related energy at wholesale to nonassociate bulk power purchasers on market based terms and conditions. EPI currently owns a 21.5% undivided ownership interest in Unit No. 2 of the Independence Steam Electric Generating Station ("Independence 2") and a 100% ownership interest in Unit No. 2 of the Ritchie Steam Electric Generating Station ("Ritchie 2"), at 544 megawatt ("MW") oil- and gas-fired generating facility. Together, EPI's interest in Independence 2 and Ritchie 2 represents an aggregate of 809 MW of generating capacity. EPI is presently authorized by the Federal Energy Regulatory Commission ("FERC") to sell, at market based rates, up to an aggregate of 1,500 MW of capacity and energy. To facilitate these sales, EPI receives electric transmission service under the Entergy system's open access transmission tariff.

[5] Entergy Power Marketing Corp. ("EPMC") was originally organized in 1995 as an EWG, defined below, to engage in the marketing and brokering of electric power at wholesale. Coincident with Commission order dated January 6, 1998, Holding Co. Act Release No. 26812, EPMC relinquished its EWG status. EPMC currently engages in the brokering and marketing of energy commodities in wholesale and retail markets in the United States, and risk management and other activities related to its energy commodities business. Applicants assert that EPMC does not own or operate any facility that would cause it to fall within the definition of an "electric utility company" or a "gas utility company" under the Act.

[6] By Commission order dated December 28, 1992, Holding Co. Act Release No. 25718, Entergy Integrated Solutions, Inc. ("EIS") was formed as a wholly owned subsidiary of EEI to engage in, among other things, the energy management services business and the provision of related consulting services. EIS's primary business is the installation and maintenance of high efficiency lighting equipment through multiyear sales contracts for small to medium size commercial customers. Under Commission order dated July 27, 1995, Holding Co. Act Release No. 26342, EIS recently broadened its product offerings to include the design, installation, operation and maintenance of high efficiency air conditioning, refrigeration and energy management systems for commercial, institutional and government customers.

[7] Entergy Nuclear, Inc. ("ENI"), a wholly owned subsidiary of EEI, was formed as an O&M Sub to

Continued

Parkway, Jackson, Mississippi 39213 and Entergy Operations Services, Inc.,[8] 110 James Parkway West, St. Rose, Louisiana 70087 (collectively, ''Applicants''), have filed an application-declaration (''Application'') under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 12(f), 13(b), 32 and 33 of the Act and rules 42, 45, 46, 53, 54, 58, 83, 87, 90 and 91 under the Act requesting authorization to engage in various financing and related transactions involving Entergy and/or certain of its nonutility subsidiaries.

*New Subsidiaries*

Entergy proposes to acquire, directly or indirectly, the securities of one or more companies (''New Subsidiaries'') organized for the purposes of (a) performing service and development activities currently authorized by the Commission [9] and/or (b) acquiring, owning and holding the securities of one or more associate companies. These associate companies would include exempt wholesale generators (''EWGs''),[10] foreign utility companies (''FUCOs''),[11] exempt telecommunications companies (''ETCs''),[12] energy-related companies (''ERCs''),[13] O&M Subs, other New Subsidiaries and certain subsidiaries of Entergy (''Authorized Subsidiary Companies'').[14] EWGs, FUCOs, ETCs, ERCs, O&M Subs, New Subsidiaries and Authorized Subsidiary Companies are referred to in this Application collectively as ''Nonutility Companies''.

New Subsidiaries may be direct or indirect subsidiaries of Entergy, and may perform development activities and administrative services and/or consulting services, as described below. Investments by Entergy in New Subsidiaries may take the form of any combination of: (i) purchases of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of equity interests (collectively, ''Capital Stock''); (ii) capital contributions; (iii) open account advances without interest; (iv) loans; and (v) Guarantees, as defined below, issued in support of securities or other obligations of New Subsidiaries. The source of funds for direct or indirect investments by Entergy in any New Subsidiary include (a) borrowings authorized by Commission orders dated February 26, 1997 (HCAR No. 26674); (b) proceeds from the sale of Entergy common stock authorized by Commission order dated March 25, 1997 (HCAR No. 26693) and June 6, 1996 (HCAR No. 26528); (c) proceeds derived from securities issuances authorized by the Commission in future orders; and (d) other available cash resources. Loans by Entergy to a New Subsidiary will have interest rates and maturity dates that are designed to provide a return to Entergy of not less than Entergy's effective cost of capital. To the extent not exempt or otherwise authorized by the Commission, initial investments in the Capital Stock of New Subsidiaries will be included in the Aggregate Authorization, as described below.

To the extent that Entergy provides funds to a New Subsidiary which are used to invest in any EWG or FUCO, the amount of the investment will be included in the calculation of ''aggregate investment'' required under rule 53. Moreover, to the extent that Entergy provides funds to a New Subsidiary which are used to invest in an ERC, the amount of the investment will be included in the calculation of ''aggregate investment'' required under rule 58.

From time to time, Entergy proposes to consolidate or reorganize all or any part of its ownership interests in Nonutility Companies and/or New Subsidiaries to the extent these restructuring activities are not exempt or otherwise authorized by the Commission.

*Guarantees*

Entergy and Nonutility Companies also propose to issue guarantees or provide other forms of credit support or enhancements (collectively, ''Guarantees'') to or for the benefit of Nonutility Companies in an aggregate amount not to exceed $750 million (''Aggregate Authorization''), through December 31, 2002. Guarantees may take the form of Entergy or a Nonutility Company agreeing to guarantee, undertake reimbursement obligations, assume liabilities or other obligations with respect to or act as surety on, bonds, letters of credit, evidences of indebtedness, equity commitments, performance and other obligations undertaken by Entergy or its associate Nonutility Companies. Entergy represents that the terms and conditions of Guarantees will be established through arm's length negotiations based upon current market conditions. Entergy further undertakes that any Guarantee it or any Nonutility Company issues will be without recourse to any System Operating Company.

In determining what portion of the Aggregate Authorization is available for use, the amount of any guarantee previously issued and outstanding under the June 1995 Order will reduce Aggregate Authorization by an equal amount.[15] However, the amount of any Guarantee exempt from the Act or otherwise authorized by the Commission would not reduce the Aggregate Authorization.

To the extent that Entergy provides Guarantees in support of its investment in any EWG or FUCO, the amount of the investment will be included in the calculation of ''aggregate investment'' required under rule 53. Moreover, to the extent that Entergy provides Guarantees in support of its investment in an ERC, the amount of the investment will be included in the calculation of ''aggregate investment'' required under rule 58.

*O&M Subs*

Entergy also proposes to organize and acquire the Capital Stock of O&M Subs through December 31, 2002. O&M Subs will be formed as domestic or foreign corporations, partnership or other entities. Following the organization of an O&M Sub, investments in O&M Subs may take the form of (i) Additional purchases of Capital Stock; (ii) capital contributions or open account advances without interest; (iii) loans; (iv) Guarantees of the securities or other obligations of an O&M Sub; or (v) any combination of (i) to (iv) above. Loans by Entergy to O&M Subs will have

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engage in the business of operating and managing nuclear power facilities under the June 1995 Order. ENI has entered into a contract to provide services to Maine Yankee Atomic Power Company through September 30, 1998 in connection with the decommissioning of the Maine Yankee Nuclear Plant. ENI may enter into agreements with other utility systems to provide O&M Services.

[8] Entergy Operations Services, Inc. (''EOSI''), a wholly owned subsidiary of EEI was formed as an O&M Sub under the June 1995 Order to engage in the business of operating and maintaining fossil-fueled generation, transmission and distribution assets of utility companies, municipalities and large commercial and industrial customers, primarily in the United States. EOSI's current business activities include the sale to nonaffiliates of various O&M Services, including services related to the design and construction of fossil-fueled generating facilities and other power projects. EOSI currently provides services to, or on behalf of, the City of Austin and ESKOM, a South African utility, with respect to the management and operations of certain coal-fired generating units and nuclear generating units owned and/or operated by these customers. Recently, EOSI has performed substation maintenance and construction work for several industrial customers.

[9] See note 15 below.

[10] EWGs are defined in section 32 of the Act.

[11] FUCOs are defined in section 33 of the Act.

[12] ETCs are defined in section 34 of the Act.

[13] ERCs are defined in rule 58 under the Act.

[14] The Authorized Subsidiary Companies are the Applicants, other than Entergy.

[15] The June 1995 Order authorizes Entergy to finance the performance of certain services and the organization of O&M Subs through purchases of common stock, capital contributions, open account advances, loans and guarantees provided by EWGs, FUCOs and other Nonutility Companies in an aggregate amount not to exceed $350 million. This authorization expired on December 31, 1997.

interest rates and maturity dates that are designed to provide a return to Entergy of not less than Entergy's effective cost of capital. To the extent not exempt or otherwise authorized by the Commission, initial investments in the Capital Stock of O&M Subs will be included in the Aggregate Authorization.

Entergy proposes to continue to provide O&M Services,[16] indirectly through one or more O&M Subs, to or for the benefit of associate and nonassociate developers, owners and operators of domestic and foreign power projects and other electric utility systems or facilities, including projects that Entergy may develop on its own, through an associate Nonutility Company, or in collaboration with third parties. O&M Subs proposes to charge fair market value for O&M Services performed. To the extent not exempt or otherwise authorized by the Commission, Entergy requests an exemption from the ''at-cost'' requirements of rules 90 and 91 for services rendered to associate companies, other than an Excepted Company,[17] provided that no O&M Services will be rendered to an associate power project unless the project (i) Is a FUCO or an EWG that derives no part of its income, directly or indirectly, from the generation and sale of electric energy within the United States; (ii) is an EWG that sells electricity at market-based rates which have been approved by the FERC or the relevant state public utility commission, provided that the purchaser is not an Excepted Company; (iii) is a ''qualifying facility'' (''QF'') under the Public Utility Regulatory Policies Act of 1978, as amended (''PURPA''), that sells electricity exclusively at rates negotiated at arm's length to one or more industrial or commercial customers purchasing the electricity for their own use and not for resale, or to an electric utility company (other than an Excepted Company) at the purchaser's ''avoided cost'' as determined under the regulations under PURPA; or (iv) is an EWG or QF that sells electricity at rates based upon its cost of services, as approved by the FERC or any state public utility commission having jurisdiction, provided that the purchaser of the electricity is not an Excepted Company.

*Securities Issuances by Nonutility Companies*

Entergy requests authorization for Nonutility Companies to issue and/or sell securities of any type, including the issuance of Guarantees (collectively, ''Securities''), to Entergy, to other Nonutility Companies or to nonassociate companies, including banks, insurance companies and other financial institutions from time to time through the earlier to occur of December 31, 2002 or the effective date of any rule adopted by the Commission exempting the proposed sale and issuance of Securities from the requirements of prior approval under sections 6(a) and 7 of the Act.

Equity Securities issued by a Nonutility Company may include capital shares, partnership interests, member interests in limited liability companies, trust certificates or the equivalent security under applicable foreign law. Equity Securities may be denominated in either U.S. dollars of foreign currencies. Entergy requests that the Commission reserve jurisdiction over the modification by Nonutility Companies of the terms of their charters or other governing documents to effect the issuance of equity Securities, pending completion of the record. Entergy undertakes that it will file a post-effective amendment in this proceeding describing the proposed charter modification and obtain a supplemental order of the Commission authorizing the charter modifications.

Entergy also requests that the Commission reserve jurisdiction over the issuance of any equity Securities not currently exempt under rule 52(b) or otherwise authorized by the Commission (''Other Securities''). Entergy undertakes that it will file a post-effective amendment in this proceeding describing the general terms of the proposed Other Securities and obtain a supplemental order of the Commission authorizing the issuances of Other Securities.

In connection with the issuance of debt Securities by Nonutility Companies, Entergy requests authorization for Nonutility Companies to enter into interest rate swaps, options and similar products to mitigate interest rate risk associated with debt Securities.

Net proceeds from the issuance and sale of Securities will be used for general corporate purposes, including (1) loans to and/or equity investments in Nonutility Companies; (2) for the repayment, refinancing or redemption of outstanding securities of Entergy or Nonutility Companies originally issued for purposes of acquiring interests in Nonutility Companies or providing funds for the authorized business activities of these companies; and (3) for working capital or other cash requirements of Nonutility Companies. Entergy states that net proceeds will only be applied to finance activities that are exempt under the Act or otherwise authorized by the Commission.

Entergy undertakes that no System Operating Company will incur any indebtedness, extend any credit, or sell or pledge its assets, directly or indirectly, to or for the benefit of any Nonutility Company. Entergy further undertakes that any Securities issued by a Nonutility Company will be nonrecourse to any System Operating Company.

*Services by Nonutility Companies*

To the extent not exempt or otherwise authorized by the Commission, Entergy requests authorization for Nonutility Companies to provide other Nonutility Companies with administrative services (''Administrative Services''),[18] to provide consulting services (''Consulting Services'')[19] to other Nonutility Companies and to nonassociate companies, and to engage in development activities (''Development Activities''),[20] all on a world-wide basis.

The Applicants state that Administrative Services, Consulting Services and Development Activities

[16] O&M Services would include, but not be limited to, development, engineering, design, construction and construction management, pre-operational start-up, testing and commissioning, long-term operations and maintenance, fuel procurement, management and supervision, technical and training, administrative support, market analysis, consulting, coordination and any other managerial, technical, administrative or consulting required in connection with the business of owning or operating facilities used for the generation, transmission or distribution of electric energy (including related facilities for the production, conversion, sale or distribution of thermal energy) or coordinating their operations in the power market.

[17] Excepted Companies include the System Operating Companies, System Energy Resources, Inc., System Fuels, Inc., Entergy Services, Inc., Entergy Operations, Inc. or any other subsidiary Entergy may create whose activities and operations are primarily related to the domestic sale of electric energy at retail or at wholesale or the provision of related goods or services to Entergy's affiliates.

[18] Administrative Services would include, without limitation, corporate and project development and planning, management, administrative, employment, tax, legal, accounting, engineering, consulting, marketing, utility performance and electric data processing services, and intellectual property development, marketing and other support services.

[19] Consulting Services would include, without limitation, providing technical capabilities and expertise primarily in the areas of electric power generation, transmission and distribution and ancillary operations.

[20] Development Activities would include, without limitation, investigating sites, research, engineering and licensing activities, acquiring options and rights, contract drafting and negotiation, legal, accounting and financial analysis, preparing and submitting bids and proposals, and other activities necessary to identify and analyze investment opportunities on behalf of companies in the Entergy system, excluding Excepted Companies.

would generally be performed at cost. The Applicants further state that to the extent that any Nonutility Company uses the expertise or resources of an Excepted Company in connection with the performance of Administrative Services, Consulting Services or Development Activities, such expertise or resources shall be provided in a manner consistent with the terms and conditions contained in the June 1995 Order.

To the extent not exempt or otherwise authorized by the Commission, Entergy requests an exemption from the ''at cost'' requirements of rules 90 and 91 for the performance of Administrative Services, Consulting Services and Development Activities by Nonutility Companies for associate Nonutility Companies, provided that no Excepted Company shall be engaged or otherwise involved, directly or indirectly, in the performance of Administrative Services, Consulting Services or Development Activities that are provided to Nonutility Companies at a price other than at cost. Nonutility Companies would continue to provide Consulting Services to nonassociate companies at market rates.

*Payment of Dividends*

To the extent not exempt from the Act or otherwise authorized by the Commission, Entergy requests authorization for Nonutility Companies to declare and pay dividends out of capital or unearned surplus to their immediate parent companies through December 31, 2002, subject to applicable corporate law and any applicable financing agreement which restricts distributions to shareholders.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98–4204 Filed 2–18–98; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–39647; File No. SR–DTC–97–12]**

## Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of Proposed Rule Change to Establish a Voluntary Redemption and Sales Service for Depository Eligible Units of Unit Investment Trusts

February 11, 1998.

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 27, 1997, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on January 22, 1998, amended the proposed rule change as described in Items I, II, and III below; which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will allow DTC to establish procedures for a redemption and sales service for depository eligible unit investment trusts (''UITs'') to be called the investor's voluntary redemptions and sales service (''IVORS'').

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

DTC is establishing IVORS to provide its participants with a secure and efficient redemption and sales service for DTC-eligible units in UITs. IVORS will offer two basic UIT services: (1) Redemption of units with the UIT transfer agent for cash payment and (2) sale of units to the UIT sponsor for cash payment. IVORS initially will be available to eligible DTC participants by way of DTC's participant terminal system (''PTS'').

IVORS will be available only if (1) the UIT units are DTC-eligible and are held in DTC's fast automated securities transfer (''FAST'') system;[3] (2) the FAST transfer agent currently is or agrees to become a full service DTC participant; and (3) the UIT's lead sponsor or its clearing agent agrees to participate in IVORS as a DTC participant. When a specific UIT becomes eligible for IVORS, its FAST transfer agent will submit initial standing instructions for the UIT to an IVORS data base on PTS regarding participants' ability to redeem or to sell units through IVORS. The UIT sponsor will be able to make daily changes to those standing instructions by way of PTS. When a participant holding units in its DTC account submits a request through IVORS to surrender the units for their value, IVORS will determine which of the two basic services (*i.e.*, redemption or sale) is available for the units based on the standing instructions for the particular UIT CUSIP number in the IVORS database.

After the determination of whether to surrender the units through a redemption or sale has been made, IVORS will then process the transaction. On the date of the participant's request to surrender the units (*i.e.*, trade date or ''T''), IVORS will move the surrendered units from the participant's free position to its ''IVORs pending surrender segregation account.'' Before the end of the day on T+2, either the FAST transfer agent or the UIT sponsor will enter into IVORS the redemption price (if the units are to be redeemed) or the purchase price (if the units are to be sold) plus the accrued dividend per unit. Both redemptions and sales of units through IVORS will be settled on T+3.

IVORS automatically will calculate the settlement value of the redemption or sale and will generate a deliver order (''DO'') to move the units versus payment of the settlement value from the redeeming participant's IVORS pending surrender segregation account either to the FAST transfer agent's DTC participant account (in the case of a redemption) or to the UIT sponsor's DTC participant account (in the case of a sale). If the units are being redeemed, IVORS automatically will generate a second DO to remove the units from the FAST transfer agent's DTC participant account. If the units are being sold, the units will remain in the UIT sponsor's DTC account until the UIT sponsor later delivers them to a secondary-market purchaser or redeems them by way of IVORS.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) of the Act[4] and the rules and regulations thereunder because it will promote efficiencies in the clearance and settlement of securities transactions.

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] DTC has informed the Commission that DTC-eligible UIT units usually are held in the FAST system.

[4] 15 U.S.C. 78q–1(b)(3)(A).

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, in the public interest, or for the protection of investors.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

DTC has solicited participant comments on the proposed rule change. It has taken into account participant input in the development of this proposal.

DTC's planning department with several UIT sponsors and trustee/transfer agents in the process of developing the IVORS service. The proposal for IVORS was distributed to the executive committee of the Reorganization Division Inc. of the Securities Industry Association (''SIA''). Slides of the proposed service were also presented during annual meetings of the SIA Reorganization Division.

In response to DTC newsletter articles regarding the IVORS proposal and discussions with participant service representatives on their field trips, over a dozen participants requested copies of the IVORS proposal and offered to participate in a pilot of the new service.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–97–12 and should be submitted by March 12, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98–4095 Filed 2–18–98 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–39648; File No. SR–OCC–97–12]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Regarding Initial and Minimum Net Capital Requirements for Futures Commission Merchants

February 11, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 15, 1997, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–OCC–97–12) as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change will amend OCC's rules regarding its initial and minimum net capital requirements for clearing members that are also registered futures commission merchants (''FCMs'').

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

**II. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to amend OCC's rules regarding its members that are also FCMs. Under the proposed rule change, the initial and minimum net capital[3] of these members must exceed the greater of the following standards: OCC's current initial and minimum net capital requirements or that required by the clearing organization of the FCM member's designated self-regulatory organization (''DSRO'').[4]

The proposed rule change also will modify OCC's early warning notice provisions to require OCC members that are also FCMs to notify OCC if the member's capital falls below OCC's net capital requirements or if the member's capital falls below OCC's net capital requirements or if the member's capital falls below the minimum net capital requirements set by the clearing organization of the member's designated DSRO.[5]

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] OCC Rules 301 and 302 require initial and minimum net capital requirements of $1,000,000 and $750,000, respectively.

[4] According to OCC, the terms clearing organization and DSRO shall have the meanings ascribed to them in the General Regulation of the Commodity Exchange Act, 17 CFR 1.3(d) and 17 CFR 1.3(ff)(1)(2), respectively. Letter from Robert C. Rubenstein, OCC (September 3, 1997).

[5] This rule change assumes the prior effectiveness of OCC's proposed rule change File No. SR–OCC–97–05, which will amend OCC's by-laws and rules to provide for early warning notice of noncompliance with the financial requirements of a regulatory organization. Securities Exchange Act Release No. 38948 (August 19, 1997) 62 FR 44998 [File No. SR–OCC–97–05] (filing of a proposed rule change relating to early warning notices). In the event that the filing is not approved prior to the approval of this rule change, then Rule 303 will read as follows:

(a) A clearing member other than an exempt Non-U.S. clearing member shall notify the Corporation promptly, and in any event prior to 3:00 P.M. Central Time (4:00 P.M. Eastern Time) of the following business day if:

Continued

OCC believes that the proposed rule change will increase its financial surveillance of its clearing members in situations where the clearing member's net capital falls below that level required by its futures clearing organization. OCC believes that this additional standard will enhance its membership criteria and afford OCC with greater protection without being unduly burdensome. This proposed additional standard will incorporate financial criteria within OCC's rules that are already applicable to clearing members registered as FCMs.

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations promulgated thereunder because the proposed rule change is consistent with assuring the safeguarding of securities and funds which are in the custody and control of OCC and for which it is responsible.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comment**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–97–12 and should be submitted by March 12, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

**Margaret H. McFarland,**

*Deputy Secretary.*

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(1) Such clearing member's net capital shall become less than the greater of $1,000,000 or (in the case of a clearing member not electing to operate pursuant to the alternative net capital requirements) *ten percent* of its aggregate indebtedness, or (in the case of a clearing member electing to operate pursuant to the alternative net capital requirements) *five percent* of its aggregate debit items, or *(in the case of a clearing member that also registered as a futures commission merchant) the minimum net capital required by the clearing organization of the clearing member's designated self regulatory organization;* or

(2)–(6) [no change.]

(b) [No changes from changes proposed in SR–OCC–97–05.]

(Deleted text is bracketed and additions are in italics.)

[6] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–39640; File No. SR–PHLX–98–05]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments 1 and 2 Thereto by the Philadelphia Stock Exchange, Inc. Regarding Automatic Price Improvement

February 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that January 27, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On February 3, 1998, and February 6, 1998, respectively, the Exchange filed amendments 1 and 2 to the proposal with the Commission.[2] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended from interested persons.

[1] 15 U.S.C. 78s(b)(1).

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange, pursuant to Rule 19b–4 of the Act, proposes to amend Rule 229, the Phlx Automated Communications and Execution (''PACE'') System, Supplementary Material .07(c)(i), Automatic Double-up/Double-down Price Improvement, to clarify and correct three aspects of this new provision.[3] First. the Exchange proposes to add into the text of Rule 229.07(c) that the Public Order Exposure (''POES'') window does not apply where automatic price improvement or manual price protection are in place. Second, the Exchange proposes to expand upon the provision stating that member organizations entering orders may elect to have such orders executed in accordance with paragraph (c), or not to participate in either double-up/double-down feature. Specifically, the Exchange proposes to add that failure to elect will result in the activation of the double-up/double-down feature for that User, but specialists determine whether to provide automatic price improvement in a particular security. Third, the Exchange proposes to clarify that in situations where automatic pride improvement would result in an execution at a price better than the last sale price, the order would be stopped at the PACE Quote[4] when received, meaning that the order is guaranteed to

[2] See Letter from Edith Hallahan, Associate General Counsel, Phlx to Michael Walinskas, Senior Special Counsel, SEC dated February 2, 1998 (''Amendment No. 1'') and letter from Edith Hallahan, Associate General Counsel, Phlx to Michael Walinskas, Senior Special Counsel, SEC dated February 6, 1998 (''Amendment No. 2''). Amendment No. 1 makes several substantive change to the originally proposed filing. Amendment No. 2 makes a non-substantive change to correct an internal cross-reference in Rule 229.07(c)(i)(D).

[3] See Securities Exchange Act Release No. 39548 (January 13, 1998), 63 FR 3596 (January 23, 1998).

[4] The PACE Quote consists of the best bid/offer among the American, Boston, Cincinnati, Chicago, New York, Pacific and Philadelphia, Stock Exchanges as well as the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES''). See Phlx Rule 229.

receive at least that price by the end of the trading day. The text of the proposed rule change is available at the Office of the Secretary, the Phlx and at the Commission.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

PACE is the Exchange's automated order routing and execution system on the equity trading floor. PACE accepts orders for automatic or manual execution in accordance with the provisions of Rule 229, which governs the PACE System and defines its objectives and parameters. The PACE Rule establishes execution parameters for orders depending on type (market or limit), size and the guarantees offered by specialists.

Recently, the Commission approved Rule 229.07(c), providing either automatic price improvement or manual price protection in double-up/double-down situations.[5] A ''double-up/double-down'' situation is defined as a trade that would be at least: (i) ¼ (up or down) from the last regular way sale on the primary market; or (ii) ¼ from the regular way sale that was the previous intraday change on the primary market.[6] The term ''double'' originated with two ⅛ ticks, meaning ¼. A down tick of 1/16 followed by a down tick of 3/16 would be a double-down situation, because it equals ¼.

During the approval process for Rule 229.07(c), two potential clarifications were identified. First, the POES window does not apply where automatic price improvement or manual price protection are in place.[7] The POES window, contained in Rule 229.05, currently provides that round-lot market orders up to 500 shares and partial round-lot (''PRL'' which combines a round-lot with an odd-lot) market orders up to 599 shares are stopped at the PACE Quote at the time of entry into PACE (''Stop Price'') for a 30 second delay to provide the Phlx specialist with the opportunity to effect price improvement when the spread between the PACE Quote exceeds ⅛ point If such order is not executed with the POES window, the order is automatically executed at the Stop Price. The representation that the POES window does not apply when automatic price improvement or manual price protection are in place was made by the Exchange in the original proposal to adopt Rule 229.07(c),[8] and is now being added to the actual text of that provision.

Second, the Exchange proposes to expand upon the provision stating that member organizations entering orders may elect to have such orders executed in accordance with paragraph (c), or not to participate in either double-up/double-down feature. The Exchange proposes to add that failure to elect will result in the activation of the double-up/double-down feature for that User, noting that specialists determine whether to provide automatic price improvement in a particular security.[9] This change is intended to clarify that enabling the features is the default setting; thus, PACE users may choose not to participate, but failure to choose results in enabling the features.

Third, following approval, but prior to implementation of the proposal, a situation was identified whereby certain orders would automatically receive price improvement resulting in an execution better than the last sale. Specifically, ''better than the last sale'' means a buy order at a price less than the last sale or a sell order at a price higher than the last sale. This was not the intent of the original proposal, and, in fact, may create a potential violation of the short sale rule,[10] which prohibits certain short sales of a security on a down tick. For example, where the PACE Quote is 22¼–¾, the last sale was at ¾ and the previous sale was at ½, the provision would apply to a sell order, because selling at ¼ creates a double-down tick (½ away from ¾), as well as a buy order, because buying at ¾ is, although not an up or down tick from the last sale of ¾, ¼ away from the last change, even though the last sale at ¾ (which was a zero tick) created the double-up tick from the previous sale at ½. The buy order would automatically be improved to ⅝, which would result in an execution at a price better than the last sale and, possibly, in violation of the short sale rule; if the specialist selling at ⅝ was short that security, a short sale on a down tick has occurred automatically. The sell order is currently eligible to be improved to ⅜, without a potential short sale rule violation.[11]

Instead, the Exchange proposes that in any situation where an improved price would be better than the last sale, the order be stopped at the PACE Quote when received. As stated in the proposal adopting this provision, stopped orders are subject to Equity Floor Procedure Advice A–2, such that specialists must display stopped orders at the improved price[12] and any contra-side orders received by the specialist will be taken into account for purposes of determining when to execute a stopped order and at what price. Thus, this change is intended to eliminate potential short sale violations respecting PACE orders to buy, and to correct the result that any order may receive price improvement over the last sale. The Exchange does not believe it is customary or appropriate to provide price improvement over the last sale price. Price improvement generally takes the form of stopping orders, where the next sale price can benefit the stopped order; the last sale price also serves as a measure against the stop price. In this regard, the Exchange notes that automatic price improvement on the Chicago Stock Exchange (''CHX'') does not consist of price improvement over the last sale.[13] The proposal at hand is intended to create an exception to providing automatic double-up/double-down price improvement to eligible orders pursuant to rule 229.07(c)(i). As stated above, this exception was omitted from the original proposal and serves to complete that initiative for quick implementation of automatic price improvement on the Phlx. Despite this exception, the essence of the provision—to automatically improve eligible orders in double-up/double-down situations—remains fundamentally preserved.

[5] See supra note 3.

[6] Hereinafter, all references to the last sale price are to the last regular way sale.

[7] See Securities Exchange Act Release No. 39225 (October 8, 1997), 62 FR 54147 (October 17, 1997).

[8] See Securities Exchange Act Release No. 39548 (January 13, 1998), 63 FR 3596 (January 23, 1998), at note 10.

[9] See Securities Exchange Act Release NO. 39548 (January 13, 1998), 63 FR 3596 (January 23, 1998), at note 22.

[10] See Phlx Rule 455 and Section 10(a) of the Act.

[11] The specialist would be the buyer in this case, and the sell order could not be a sell short order, as such orders are not accepted over the PACE System.

[12] The order would be incorporated into the determination of the Specialist's best bid and offer.

[13] See CHX Rules Article XX, Rule 37.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6 of the Act,[14] in general, and furthers the objectives of Section 6(b)(5)[15] in particular, in that it is designed to promote just and equitable principles of trade and perfect the mechanism of a free and open market and a national market system, by correcting and clarifying the Phlx's double-up/double-down rule to more accurately and fairly provide price improvement to PACE orders.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(e)(6)[17] thereunder, the proposed rule change has become effective upon filing as it effects a change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has provided written notice of its intent to replace the original filing with this filing (Amendment No. 1). The Exchange has requested that the Commission accelerate the operative date of the proposal in order for the automatic double-up/double-down price improvement provision, as amended, to become operative promptly.

The Commission finds good cause for accelerating the operative date of the proposal as of the date of this notice. Accelerating the operative date of the proposal will enable the Exchange to begin using its automatic double-up/double-down price improvement provision without the possibility of violating the short sale rule. In addition, the Exchange's representation that the POES window does not apply when automatic price improvement or manual price protection are in place was made in the original proposal; the current filing merely codifies this treatment in Phlx's rule book.[18] Finally, the Commission believes that the proposed refinement to the automatic double-up/double-down feature that stops certain orders at the PACE quote rather than providing an immediate execution better than the last sale price is consistent with the double-up/double-down protection program that is employed by CHX.[19] Although customers may not benefit from the automatic double-up/double-down program to the extent the original filing (Phlx 97–23) allowed, the revised program should still enhance the quality of stock executions on Phlx. The Commission notes that the original proposal was published for the full comment period during which no comments were received.[20] The Commission believes that the proposal does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate for the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–98–05 and should be submitted by March 12, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98–4096 Filed 2–18–98; 8:45 am]

BILLING CODE 8010–01–M

[14] 15 U.S.C. 78f.

[15] U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(e).

[18] See Securities Exchange Act Release No. 39548 (January 13, 1998), 63 FR 3596 (January 23, 1998).

[19] See CHX Rules Article XX, Rule 37(b)(6).

[20] See Securities Exchange Act Release No. 39548 (January 13, 1998), 63 FR 3596 (January 23, 1998) (order approving SR–Phlx–97–23).

[21] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

**DATES:** Comments should be submitted on or before April 20, 1998.

**FOR FURTHER INFORMATION CONTACT:** Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

**SUPPLEMENTARY INFORMATION:**

*Title:* ''Financing Eligibility Statement for Demonstration of Social or Economic Disadvantage.''

*Type of Request:* Extension of a currently approved collection.

*Form No's:* 1941A, 1941B, 1941C.

*Description of Respondents:* SBA Businesses Seeking Financing from Specialized Small Business Investment Companies (SBIC).

*Annual Responses:* 1,000.

*Annual Burden:* 2,000.

*Comments:* Send all comments regarding this information collection to Cathy Fields, Program Analyst, Office of Investment Division, Small Business Administration, 409 3rd Street, S.W., Suite 6300, Washington, D.C. 20416. Phone No: 202–205–6512.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

*Title:* ''Notice of Award, Grant/ Cooperative Agreement Cost Sharing Proposal.''

*Type of Request:* Extension of a currently approved collection.

*Form No's:* 1222 and 1224.

*Description of Respondents:* SBA Grant Applicants and Recipients.

*Annual Responses:* 1,480.

*Annual Burden:* 118,920.

*Comments:* Send all comments regarding this information collection to Doris Copeland, Grants Specialist, Office of Procurement & Grants Management, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone No: 202–205–6621.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

*Title:* ''Settlement Sheet.''

*Type of Request:* Extension of a currently approved collection.

*Form No:* 1050.

*Description of Respondents:* SBA Borrowers.

*Annual Responses:* 17,000.

*Annual Burden:* 12,750.

*Comments:* Send all comments regarding this information collection to Harry Kempler, Chief Counsel for Business Loans, Office of General Counsel, Small Business Administration, 409 3rd Street, S.W., Suite 7200, Washington, D.C. 20416.

*Phone No:* 202–205–6642.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

*Title:* ''Application for Certificate of Competency.''

*Type of Request:* Extension of a currently approved collection.

*Form No's:* 74, 74A, 74B, 183.

*Description of Respondents:* Small Businesses.

*Annual Responses:* 1,088.

*Annual Burden:* 11,769.

*Comments:* Send all comments regarding this information collection to Rita Bailey, Program Assistant, Office of Prime Contracts, Small Business Administration, 409 3rd Street, S.W., Suite 8800, Washington, D.C. 20416. Phone No: 202–205–6471.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

*Title:* ''Application for Section 504/ 502 Loan.''

*Type of Request:* Extension of a currently approved collection.

*Form No:* 1244.

*Description of Respondents:* Small Business Applying for Financial Assistance.''

*Annual Responses:* 4,000.

*Annual Burden:* 9,000.

*Comments:* Send all comments regarding this information collection to Keith Lucas, Program Assistant, Office of Loan Programs, Small Business Administration, 409 3rd Street, S.W., Suite 8300, Washington, D.C. 20416. Phone No: 202–205–6570.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

*Title:* ''The Impact of Environmental Liability on Access to Capitol for Small Business.''

*Type of Request:* Extension of a currently approved collection.

*Form No:* SBA–8144–OA–94.

*Description of Respondents:* Small Business Investment Capital Companies.

*Annual Responses:* 1,000.

*Annual Burden:* 160.

*Comments:* Send all comments regarding this information collection to Charles Ou, Office of Economic Research, Small Business Administration, 409 3rd Street, S.W., Suite 7800, Washington, D.C. 20416. Phone No: 202–205–6530.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

*Title:* ''SBA Participating Lender EDI Participant Profile.''

*Type of Request:* Extension of a currently approved collection.

*Form No:* 1944.

*Description of Respondents:* Small Participating Lenders.

*Annual Responses:* 8,337.

*Annual Burden:* 2,779.

*Comments:* Send all comments regarding this information collection to George Price, Director, Market Research, Small Business Administration, 409 3rd Street, S.W., Suite 7600, Washington, D.C. 20416. Phone No: 202–205–6744.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 98–4108 Filed 2–18–98; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**ACTION:** Notice of reporting requirements submitted for review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Comments should be submitted on or before March 23, 1998. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

**COPIES:** Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

**FOR FURTHER INFORMATION CONTACT:**

*Agency Clearance Officer:* Jacqueline White, Small Business Administration, 409 3RD Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629.

*OMB Reviewer:* Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

*Title:* Application forms for the 8(a) Program.

*Form No:* 1010A, 1010B, 1010C.

*Frequency:* On Occasion.

*Description of Respondents:* 8(a) Companies.

*Annual Responses:* 33,000.

*Annual Burden:* 177,000.

Dated: February 11, 1998.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 98–4107 Filed 2–18–98; 8:45 am]

BILLING CODE 8025–01–P

## SOCIAL SECURITY ADMINISTRATION

### Finding Regarding the Social Insurance System of Albania

**AGENCY:** Social Security Administration.

**ACTION:** Notice of finding regarding the Social Insurance System of Albania.

### Finding

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months, and prior to the first month thereafter for all of which, the individual has been in the United States. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2)–(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Commissioner of Social Security finds has in effect a social insurance system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Commissioner of Social Security has delegated the authority to make such a finding to the Associate Commissioner for International Policy. Under that authority, the Associate Commissioner for International Policy has approved a finding that Albania, as of October 1, 1993, has a social insurance system of general application which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits United States citizens who are not citizens of Albania and who qualify for the relevant benefits to receive those benefits, or their actuarial equivalent, while outside of Albania, regardless of the duration of the absence of these individuals from Albania.

Accordingly, it is hereby determined and found that Albania has in effect, as of October 1, 1993, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

This is our first finding under section 202(t) of the Social Security Act for Albania. For the period September 7, 1948 through September 29, 1992, U.S. Treasury Department regulations prohibited sending U.S. Government checks (including U.S. Social Security checks) to, or on behalf of, individuals in Albania. These restrictions were lifted on September 30, 1992.

However, prior to October 1, 1993, the date that the People's Assembly Law on Social Insurance in the Albanian Republic, Act No. 7703, entered into force, there was no provision for the payment of benefits to U.S. citizens residing outside Albania as required under section 202(t)(2)(B) of the Social Security Act. Consequently, payment of benefits to Albanian citizens under the social insurance exception was not possible until the new law went into effect.

**FOR FURTHER INFORMATION CONTACT:** Donna Powers, Room 1104, West High Rise Building, P.O. Box 17741, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3568.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: February 5, 1998

**James A. Kissko,**

*Associate Commissioner for International Policy.*

[FR Doc. 98–4160 Filed 2–18–98; 8:45 am]

**BILLING CODE 4190–29–P**

## TENNESSEE VALLEY AUTHORITY

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Tennessee Valley Authority (Meeting No. 1501).

**TIME AND DATE:** 9 a.m. (CST), February 20, 1998.

**PLACE:** Winston County Courthouse, 2d Floor Courtroom, 113 Main Street, Louisville, Mississippi.

**STATUS:** Open.

### Agenda

Approval of minutes of meeting held on January 28, 1998.

*New Business*

C—Energy

C1. Delegation of authority to the Vice President of Fuel Supply and Engineering to award a contract for the sale of up to 100,000 tons per year of fly ash from Bull Run Fossil Plant to Babb Cellular Concrete (BBC), LLC, and approval of a grant of an industrial term easement to BCC affecting approximately 10 acres of the Bull Run site for construction and operation of an autoclaved cellular concrete plant (Tract No. XBRSP–3IE).

E—Real Property Transactions

E1. Sale of a permanent easement to the Town of Smyrna, Tennessee, affecting approximately 0.08 acre of the Smyrna 161–kV Substation property (Tract No. XSMNSS–1H).

E2. Abandonment of easement rights affecting approximately 3.01 acres of the Gallatin-Portland-Franklin transmission line in Sumner County, Tennessee (Tract Nos. GPF–46–47–48, and GFI–1).

E3. Sale of a permanent industrial easement and four 30-year gas supply line easements to the United States Gypsum Company affecting approximately 5 acres of Guntersville Lake in Jackson County, Alabama, and Marion County, Tennessee (Tract Nos. XGR–7411E,–742P,–744P, and –745P).

E4. Nineteen-year commercial recreation lease to Randy C. Allen affecting 39.5 acres of TVA's Goat Island Recreation Area on Pickwick Lake in Tishomingo County, Mississippi (Tract No. XPR–458L).

*Information Items*

1. Approval for the sale of Tennessee Valley Authority Power Bonds.

2. Approval of new investment managers and proposed new Investment Management Agreements between the TVA Retirement System and MacKay-Shields Financial Corporation and CastleInternational Asset Management Limited.

3. Approval to file condemnation cases affecting Tract Nos. OM–1000TE and –10001TE in McCreary County, Kentucky.

4. Approval of back-up generation services for East Mississippi EPA to supply the Meridian Naval Air Station.

5. Approval of variable time of use rates for use in telecommunications pilot programs.

6. Approval to modify and extend coal Contract No. P–95P–07–148296 with Leslie Resources, Inc.

7. Grant of easement to the City of Benton, Kentucky, for a 6-inch natural gas pipeline in Marshall County, Kentucky.

8. Approval of decision denying Carolina Trout Corporation's request for a trout-rearing net-pen facility on Fontana Lake.

9. Approval of recommendations resulting from the 62nd Annual Wage Conference, 1997—Annual Trades and Labor Agreement wage rates.

10. Approval to enter into a contract with the City of New Albany, Mississippi, to provide natural gas management services.

**FOR MORE INFORMATION CONTACT:** Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: February 13, 1998.

**Edward S. Christenbury,**

*General Counsel and Secretary.*

[FR Doc. 98–4285 Filed 2–17–98; 10:31 am]

**BILLING CODE 8120–08–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Executive Committee of the Aviation Rulemaking Advisory Committee; Meetings

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of meetings.

**SUMMARY:** The FAA is issuing this notice to advise the public of dates for special meetings of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

**DATES:** The meetings will be held on March 6, April 9, June 12, July 15, and July 21, 1998, beginning at 1 p.m.

**ADDRESSES:** The March 6 meeting will be held at the U.S. Department of Transportation, 400 Seventh Street, SW., Room 6246–6248, Washington, DC. All other meetings will be held in Washington, DC, at locations to be determined.

**FOR FURTHER INFORMATION CONTACT:** Miss Jean Casciano, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075; e-mail Jean.Casciano@faa.dot.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of special meetings of the Executive Committee to be held on March 6, April 9, June 12, July 15, and July 21, 1998. The sole agenda item for these meetings will be a status report from the Fuel Tank Harmonization Working Group.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements no later than 10 calendar days in advance to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on February 13, 1998.

**Jean Casciano,**

*Acting Executive Director, Aviation Rulemaking Advisory Committee.*

[FR Doc. 98–4309 Filed 2–23–98; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Joint RTCA Special Committee 180 and EUROCAE Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held March 24–26, 1998, starting at 8:30 a.m. on March 24. The meeting will be held at EUROCAE Headquarters, 17 rue Hamelin, Paris, France.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Leadership Team Meeting Report; (5) Review Action Items; (6) Review Issue Logs; (7) Issue Team Status; (8) Plenary Disposition of Document Comments; (9) New Items for Consensus; (10) Special Committee 190 Committee Activity Report; (11) Other Business; (12) Establish Agenda for Next Meeting; (13) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 11, 1998.

**Janice L. Peters,**

*Designated Official.*

[FR Doc. 98–4163 Filed 2–18–98; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application (97–03–000–RDG) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Reading Regional Airport, Reading, PA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invite public comment on the application to impose and use the revenue from a PFC at the Reading Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before March 23, 1998.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Ms. Daboin, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Rick Sokol, Executive Director of the Reading Regional Airport Authority at the following address: Reading Regional Airport, 2501 Bernville Road, Reading, Pennsylvania 19605.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Reading Regional Airport Authority under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Sharon Daboin, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011. 717–782–4548. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Reading Regional Airport under the provisions of the Aviation Safety and

Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 7, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Reading Regional Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 7, 1998.

The following is a brief overview of the application.

*Application number:* 97–03–C–00–RDG.

*Level of the proposed PFC:* $3.00.

*Proposed charge effective date:* February 1, 1998.

*Proposed charge expiration date:* February 1, 2008.

*Total estimated PFC revenue:* $1,300,000.

*Brief description of proposed project:*

—Terminal Building Renovation

—Land Acquisition for Runway Protection Zone

Class or classes of air carriers which the pubic agency has requested not be required to collect PFCs: Part 135 on-demand Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Reading Regional Airport Authority.

Issued in Jamaica, New York, on January 29, 1998.

**Thomas Felix,**

*Planning & Programming Branch, Airports Division, Eastern Region.*

[FR Doc. 98–4164 Filed 2–18–98; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[FHWA Docket No. MC–89–10; FHWA–97–2195]**

### Inspection, Repair, and Maintenance; Periodic Inspection of Commercial Motor Vehicles

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice to motor carriers on State periodic inspection programs; closing of public docket.

**SUMMARY:** This notice adds the State of Ohio's periodic inspection (PI) program for church buses to the list of programs which are comparable to, or as effective as, the Federal PI requirements contained in the Federal Motor Carrier Safety Regulations (FMCSRs). The FHWA has published a list of such programs in the **Federal Register** previously, and this list has been revised occasionally. Including Ohio, there are 23 States, the Alabama Liquefied Petroleum Gas Board, the District of Columbia, 10 Canadian Provinces, and one Canadian Territory that have PI programs which the FHWA has determined to be comparable to, or as effective as, the Federal PI requirements. In addition, the FHWA is closing FHWA Docket No. MC–89–10, FHWA–97–2195 because interested parties know how to contact the FHWA by means other than the formal docket system to request that an inspection program be added to the list.

**DATES:** This action is effective on February 19, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry W. Minor, Office of Motor Carrier Standards, HCS–10, (202) 366–4009; or Mr. Charles Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/su__docs.

#### Background

Section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31142) (the Act) requires the Secretary of Transportation (the Secretary) to prescribe standards for annual, or more frequent, inspection of commercial motor vehicles (CMVs), unless the Secretary finds that another inspection system is as effective as an annual, or more frequent, inspection. On December 7, 1988, in response to the Act, the FHWA published a final rule amending 49 CFR part 396, Inspection, Repair, and Maintenance (53 FR 49402). The final rule requires CMVs operated in interstate commerce to be inspected at least once a year. The inspection is to be based on Federal inspection standards, or a State inspection program determined by the FHWA to be comparable to, or as effective as, the Federal standards. Accordingly, if the FHWA determines a State's PI program is comparable to, or as effective as, the requirements of part 396, then a motor carrier must ensure that all of its CMVs which are required by that State to be inspected through the State's inspection program are so inspected. If a State does not have such a program, the motor carrier is responsible for ensuring that its CMVs are inspected using one of the alternatives included in the final rule.

On March 16, 1989, the FHWA published a notice in the **Federal Register** which requested States and other interested parties to identify and provide information on the CMV inspection programs in their respective jurisdictions (54 FR 11020). Upon review of the information submitted, the FHWA published a list of State inspection programs which were determined to be comparable to the Federal PI requirements (54 FR 50726, December 8, 1989). This initial list included 15 States and the District of Columbia. That list was revised on September 23, 1991, to include the inspection programs of the Alabama Liquefied Petroleum Gas (LPG) Board, California, Hawaii, Louisiana, Minnesota, all of the Canadian Provinces, and the Yukon Territory (56 FR 47983). On November 27, 1992, the list was revised to include the Wisconsin bus inspection program (57 FR 56400). On April 14, 1994, the list was revised to include the Texas CMV inspection program (59 FR 17829). The list was most recently revised on November 7, 1995, to include the Connecticut bus inspection program (60 FR 56183).

#### Determination: State of Ohio Church Bus Inspection Program

The State of Ohio (the State) has implemented mandatory annual inspection requirements for church buses as part of its program to improve the safety of operation of private motor carriers of passengers. Church groups that operate buses which qualify as commercial motor vehicles (as defined in 49 CFR 390.5) are considered private motor carriers of passengers and are subject to certain Federal safety regulations, including the periodic inspection requirements found in 49 CFR part 396. The State requires churches using buses registered as a

''church bus'' in accordance with Ohio Revised Code 4503.07, and used to transport members to and from church services or functions, to submit an application for the registration of such buses to the Bureau of Motor Vehicles. As part of the annual registration application, the church must include a certificate from the State Highway Patrol as proof that the bus has been inspected and is safe for operation in accordance with the standards prescribed by the Superintendent of the State Highway Patrol. The inspections are performed by the State Highway Patrol at State facilities or the bus owner's garage.

The FHWA has determined that the Ohio church bus inspection program in effect as of March 31, 1997, is comparable to, or as effective as, the Federal PI requirements. Therefore, private motor carriers of passengers operating buses which are subject to the State's program and which are subject to the FMCSRs must use the State's program to satisfy the Federal PI requirements.

It should be noted that in accepting the State's PI program, the FHWA also accepts the recordkeeping requirements associated with the inspection program. The inspection report used to record the inspection is a two-part form. If the vehicle passes the inspection, the bottom portion of the form is given to the bus operator to submit to the Bureau of Motor Vehicles as part of the application for vehicle registration (e.g., purchasing the annual church bus license plate). The top portion of the inspection report is maintained by the State Highway Patrol. The State church bus license plate (with a current validation sticker) is considered by the FHWA as satisfying the Federal requirement for proof of inspection on the CMV.

### States With Equivalent Periodic Inspection Programs

The following is a complete list of States with inspection programs which the FHWA has determined are comparable to, or as effective as, the Federal PI requirements:

Alabama (LPG Board)
Arkansas
California
Connecticut
District of Columbia
Hawaii
Illinois
Louisiana
Maine
Maryland
Michigan
Minnesota
New Hampshire
New Jersey
New York
Ohio
Oklahoma
Pennsylvania
Rhode Island
Texas
Utah
Vermont
Virginia
West Virginia
Wisconsin

In addition to the States listed above, the FHWA has determined that the inspection programs of the 10 Canadian Provinces and the Yukon Territory are comparable to, or as effective as, the Federal PI requirements. All other States either have no PI programs for CMVs, or their PI programs have not been determined by the FHWA to be comparable to, or as effective as, the Federal PI requirements. Should any of these States wish to establish a program or modify their programs in order to make them comparable to the Federal requirements, the State should contact the appropriate FHWA regional office listed in 49 CFR 390.27.

### Closing of FHWA Docket MC–89–10, FHWA–97–2195

This notice officially closes FHWA Docket MC–89–10, FHWA–97–2195. The docket was opened on March 16, 1989, to solicit information and public comment on State inspection programs. Since the original list of State programs was published on December 8, 1989, information concerning additions to the list, including information about Canadian inspection programs, has been submitted directly to the Office of Motor Carriers by those jurisdictions. The agency believes interested parties know how to contact the FHWA by means other than the formal docket system and it is no longer necessary to keep the docket open.

**Authority:** 49 U.S.C. 31136, 31142, 31502, and 31504; 49 CFR 1.48.

Issued on: February 11, 1998.

**Kenneth R. Wykle,**

*Administrator, Federal Highway Administration.*

[FR Doc. 98–4173 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–22–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–98–3465; Not. 1]**

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) will submit the following emergency processing public information collection requests (ICRS) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The NHTSA is publishing a notice in the **Federal Register**, informing the public of NHTSA's plan to submit to OMB Information collections for reinstatement, some with changes of previously approved collections for which approval has expired, under the emergency processing procedures, 5 CFR 1320.13. The titles descriptions, affected public, with burden estimates are shown below. Because OMB approval is valid for 180 days, NHTSA is taking appropriate steps to obtain a regular approval.

*Comments are invited on:* whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; the accuracy of the Agency's estimate of the burden of proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Comments on this notice must be received on or before April 20, 1998.

**ADDRESSES:** Comments on this notice must refer to the docket number and notice number in the heading of this notice and be submitted, preferably in two copies, to: US Department of Transportation Docket Management, PL–401, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 10:00 a.m. to 5:00 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael A. Robinson, NHTSA, Information Specialist, Office of Technical Information Services, Room

5110, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202)366–9456.

**SUPPLEMENTARY INFORMATION:**

**National Highway Traffic Safety Administration (NHTSA)**

(1) *Title:* 49 CFR Part 571.116, Motor Vehicle Brake Fluids.

*OMB Control Number:* 2127–0521.

*Affected Public:* Individuals or households.

*Abstract:* 49 U.S.C. 309111, 30112 and 30117 of the National Traffic and Motor Vehicle Safety Act of 1966, authorize the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The agency in prescribing a FMVSS is to consider available relevant motor vehicle safety data and to consult with appropriate agencies and obtain safety comments/ suggestions from the responsible counties, States, agencies, safety commissions, public and other safety related authorities. Further the Act mandates that in issuing any FMVSS the agency consider whether the standards will contribute to carry out the purpose of the Act. The Secretary is authorized to revoke such rules and regulations as he/she deems necessary to carry out this Act.

FMVSS No. 116 *Motor Vehicle Brake Fluids,* specific performance and design requirements for motor vehicle brake fluids and hydraulic system mineral oils. Section 5.2.2 specific labeling requirements for manufacturers and packagers of brake fluids as well as packagers of hydraulic system mineral oils. The information on the label of a container of motor vehicle brake fluid or hydraulic system mineral oil is necessary to insure the following: the contents of the container are clearly stated; these fluids are used for their intended purpose only; and the containers are properly disposed of when empty. Improper use or storage of these fluids could have dire consequences for the operations of vehicles or equipment in which they area used. This labeling information is used by motor vehicle owners, operators, and vehicle service facilities to aid in the proper selection of brake fluids and hydraulic system mineral oils for use in motor vehicles and hydraulic equipment, respectively.

*Estimated Annual Burden:* 7,680 hours.

*Number of Respondents:* 200.

(2) *Title:* 49 CAR Part 537—Automotive Fuel Economy Reports.

*OMB Control Number:* 2127–0019.

*Affected Public:* Business, Federal Government or other for-profit.

*Abstract:* 49 United States Code (U.S.C.)32907(a) requires a manufacturer report to the Secretary of Transportation on whether the manufacturer will comply with an applicable average fuel economy standard under 49 U.S.C. 32902 of this title for the model year for which the report is made; the actions the manufacturer has taken or intends to take to comply with the standard; and other information the Secretary requires by regulation. To start this statutory requirement, the agency issued a regulation specifying the required content of the Automotive Fuel Economy Reports.

*Estimated Annual Burden:* 3,300 hours.

*Number of Respondents:* 20.

(3) *Title:* 49 CAR Section 571, 125-Warning Devices.

*OMB Control Number:* 2127–0506.

*Affected Public:* Business or other for-profit.

*Abstract:* 49 U.S.C. 30111, 30112 and 30117 (Appendix 1) of the National Traffic and Motor Vehicle Safety Act of 1966, authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The Secretary is authorized to issue, amend, and revoke such rules and regulations as she/he deems necessary. Using this authority, the agency issued FMVSS No. 125, Warning Devices which applies to devices, without self contained energy sources, that are designed to be carried mandatorily in buses and trucks that have a gross vehicle weight rating (GVWR) greater than 10,000 pounds and voluntarily in other vehicles. These devices designed to be permanently affixed to the vehicle.

*Estimated Annual Burden:* 5.7 hours.

*Number of Respondents:* 3.

(4) *Title:* Replaceable Light Source Dimensional Information Collection, 49 CFR 54.

*OMB Control Number:* 2127–0563.

*Affected Public:* Business or other for-profit.

*Abstract:* Title 49 U.S.C. 322, 30111, 30115, 30117 and 30166, with delegation of authority at 49 CFR, 49 CFR 1.50, authorize the issuance of Federal Motor Vehicle Safety Standards (FMVSS) and the collection of data which supports their implementation. The agency, in prescribing an FMVSS, is to consider available relevant motor vehicle safety data, and to consult with other agencies as it deems appropriate. Further, the Title 49 U.S.C. mandates, that in issuing any FMVSS, the agency consider whether the standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and whether such standards will contribute to carrying out the purpose of Title 49 U.S.C. The Secretary is authorized to revoke such rules and regulations as deemed necessary to carry out this subchapter. Using this authority, the agency issued the initial FMVSS No. 108, Lamps, Reflective Devices, and Associated Equipment, specifying requirements for vehicle lighting for the purposes of reducing traffic accidents and their tragic result by providing adequate roadway illumination, improved a vehicle conspicuity, appropriate information transmission through signal lamps, in both day, night, and other conditions of reduced visibility. The standard has been amended numerous times in order to permit new headlighting designs. In recent years, the standard had become burdensome to bother regulators and regulated parties in the standard has not been able to fully accommodate the styling needs of motor vehicle designers, while at the same time assuring the safety on the highways. This resulted in numerous burdensome petitions for rulemaking to be submitted by the vehicle and lighting manufacturers to change the design restrictive language. The reason for this burden was that as originally adopted the standard was more equipment design oriented, rather than performance oriented. Recent amendments have helped to rectify this situation. The requirement for replaceable light source dimensional information has resulted in a further extension of that effort to make the standard more performance oriented, and reduce the burden of petitioning for amendments to the Standard. The standard now allows headlamp light sources (bulbs) that are specified in the standard as well as those listed in Part 564, to assure proper photometric performance upon replacement of the light sources upon failure of the original. The original manufacturer may be the same as that of the aftermarket replacement, consequently, headlamp bulbs regardless of where they are listed, are required to be standardized by inclusion of their interchangeability dimensions and other fit and photometric aspects, thus requiring all identical type bulbs to be manufactured to those pertinent interchangeability specifications. Implementation of Part 564 reduces the burden to manufacturers and user of new light sources by eliminating the 18 month petitioning process and substituting a 1 month agency review. Upon completion of the review, the new bulb's interchangeability information is listed in Part 564 and the new bulbs may be used 1 month later on new vehicles.

*Estimated Annual Burden:* 20.

*Number of Respondents:* 7.

(5) *Title:* Assigning DOT code Numbers to Glazing Material Manufacturers.

*OMB Control Number:* 2127–0038.

*Affected Public:* Business or other for-profit.

*Abstract:* Title 49, Chapter 30115 of the U.S. Code specifies that the Secretary of Transportation shall require every manufacturer or distributor of a motor vehicle or motor vehicle equipment to furnish the distributor or dealer at the time of delivery certification that each item of motor vehicle equipment conforms to all applicable Federal Motor Vehicle Safety Standards (FMVSS). Using this authority, the agency issued FMVSS No. 571.205, Glazing Materials. This standard specifies requirements for glazing materials for use in passengers cars, multipurpose passenger vehicle, trucks, buses, motorcycle, slide-in campers, and pickup covers designed to carry persons while in motion. Also, this standard specifies certification and marking of each piece of glazing materials. Certification for the items listed comes in the form of a label, tag or marking on the outside of the motor vehicle equipment and is permanently affixed and visible for the life of the motor vehicle equipment. The purpose of this standard is to aid in reducing injuries resulting from impact to glazing surfaces, and to ensure a necessary degree of transparency for driver visibility. Both glass and plastics are considered to be glazing materials which provide safety and minimize the possibility of occupants being thrown through the vehicle window in the event of an accident.

*Estimated Annual Burden:* 10.5 hours.

*Number of Respondents:* 21.

(6) *Title:* 49 CFR 571.218, Motorcycle Helmets (Labeling).

*OMB Control Number:* 2127–0518.

*Affected Public:* Federal, Local, State or Tribal Government, Business or other for-profit.

*Abstract:* The National Traffic and Motor Vehicle Safety statute at 49 U.S.C. Subchapter II Standards and Compliance, Sections 30111 and 30117 authorizes the issuance of Federal motor vehicle safety standards (FMVSS). The Secretary is authorized to issue, amend, and revoke such rules and regulations as he/she deems necessary. The Secretary is also authorized to require manufacturers to provide information to first purchasers of motor vehicles or motor vehicle equipment when the vehicle or equipment is purchased, in a printed matter placed in the vehicle or attached to or accompanying the equipment. Using this authority, the agency issued the initial FMVSS No. 218, Motorcycle Helmets, in 1974. Motorcycle helmets are the devices used for protecting motorcyclists and other motor vehicle users in motor vehicle accidents. Federal Motor Vehicle Safety Standard No. 218 requires that each helmet shall be labeled permanently and legibly (S5.6), in a manner such that the label(s) can be read easily without removing padding or any other permanent part.

*Estimated Annual Burden:* 4,000 hours.

*Number of Respondents:* 24.

(7) *Title:* Consumer Complaint/Recall Audit Information.

*OMB Control Number: 2127–0008.*

*Affected Public:* Individuals or households.

*Abstract:* Chapter 301 of Title 49 of the United States Code (formerly the National Traffic and Motor Vehicle Safety Act, as amended (the Act), the Secretary of Transportation is authorized to require manufacturers of motor vehicles and items of motor vehicle equipment to conduct owner notification and remedy, i.e., a recall campaign, when it has been determined that a safety defect exists in the performance, construction, components, or materials in motor vehicles and motor vehicle equipment. To make this determination, the National Highway Traffic Safety Administration (NHTSA) solicits information from vehicle owners which is used to identify and evaluate possible safety-related defects and provide the necessary evidence of the existence of such a defect. Under the Authority of Chapter 301 of Title 49 of the United States Code, the Secretary of Transportation is authorized to require manufacturers of motor vehicle and items of motor vehicle equipment which do not comply with the applicable motor vehicle safety standards or contains a defect that relates to motor vehicle safety to notify each owner that their vehicle contains a safety defect or noncompliance. Also, the manufacturer of each such motor vehicle or item of replacement equipment presented for remedy pursuant to such notification shall cause such defect or noncompliance to be remedied without charge. In the case of a motor vehicle presented for remedy pursuant to such notification, the manufacturer shall cause the vehicle to be remedied by whichever of the following means he elects: (1) By repairing such vehicle; (2) by replacing such motor vehicle without charge; or (3) by refunding the purchase price less depreciation. To ensure these objectives are being met, NHTSA audits recalls conducted by manufacturer. These audits are performed on a randomly selected number of vehicle owners for verification and validation purposes.

*Estimated Annual Burden:* 36,380.

*Number of Respondents:* 239,000.

(8) *Title:* Voluntary Child Safety Seat Registration Form.

*OMB Control Number:* 2127–0576.

*Affected Public:* Individuals or households.

*Abstract:* Chapter 301 of Title 49 of the United States provides that if either NHTSA or a manufacturer determines that motor vehicles or items of motor vehicle equipment contain a defect that relates to motor vehicle safety or fail to comply with an applicable Federal Motor Vehicle Safety Standard, the manufacturer must notify owners and purchasers of the defect or noncompliance and must provide a remedy without charge. Pursuant to 49 CFR Part 577 Defects and noncompliance notification for equipment items, including child safety seats, must be sentby first class mail to the most recent purchaser known to the manufacturer. In the absence of a registration system, man owners of child safety seats are not notified of safety defects and noncompliance, since the manufacturer is not aware of their identities.

*Estimated Annual Burden:* 26 hours.

*Number of Respondents:* 1,200.

(9) *Title:* Drug Offender's License Suspension Certification.

*OMB Control Number:* 2127–0566.

*Affected Public:* State, Local or Tribal Government.

*Abstract:* Section 33 of the Department of Transportation (DOT) and Related Agencies Appropriations Act for FY 1991 amends 23 U.S.C. 104, and requires the withholding of certain Federal-aid highway funds from States that do not enact legislation requiring the revocation or suspension of an individual's driver's license upon conviction for any violation of the Controlled Substances Act or any drug offense. This notice proposes the violation of the Controlled Substances Act or any drug offense. This notice proposes the manner in which States certify that they are not subject to this withholding, and disposition of funds that are withheld.

*Estimated Annual Burden:* 260 hours.

*Number of Respondents:* 52.

(10) *Title:* Fatal Accident Reporting System (FARS).

*OMB Control Number:* 2127–0006.

*Affected Public:* State, Local or Tribal Government.

*Abstract:* Under both the Highway Safety Act of 1966 and the National

Traffic and Motor Vehicle Safety Act of 1966, the National Highway Traffic Safety Administration (NHTSA) has the responsibility to collect accident data that support the establishment and enforcement of motor vehicle regulations and highway safety programs. These regulations and programs are developed to reduce the severity of injury and the property damage associated with motor vehicle accidents. The Fatal Accident Reporting System (FARS) is in its twenty-third year of operation as a major system that acquires national fatality information directly from existing State files and documents. Since FARS is an on-going data acquisition system, reviews are conducted yearly to determine whether the data acquired are responsive to the total user population needs. The total user population includes Federal and State agencies and the private sector. Annual changes in the forms are minor in terms or operation and method of data acquisition, and do not affect the reporting burden of the respondent (State employees utilize existing State accident files). The changes usually involve clarification adjustments to aid statisticians in conducting more precise analyses and to remove potential ambiguity for the respondents. OMB Clearance 2127–0006 authorizes the four FARS data acquisition forms, 214, 214A, 214B, and 214C. This clearance expired December 31, 1995. An extension of this clearance to December 2000 is requested with this submission. Since changes are not introduced during an information acquisition period. Only minor changes to data element to remove ambiguities in the information requested are planned for the 1998 data collection year. Two data items, Death Certificate Number and Fatal Injury At Work, are not recorded on any FARS form but are electronically transmitted to the central FARS file. Any subsequent increases in burden will be due to an increase in the number of traffic accidents that may occur between 1996 and 2000 throughout the country.

*Estimated Annual Burden:* 77,400 hours.

*Number of Respondents:* 52.

(11) *Title:* Consolidated Labeling Requirements for Motor Vehicles (Except the VIN).

*OMB Control Number:* 2127–0512.

*Affected Public:* Business or for-profit.

*Abstract:* 49 U.S.C. 3011 authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS) and regulations. The agency, in prescribing a FMVSS or regulation is to consider available relevant motor vehicle safety data, and consult with other agencies as it deems appropriate. Further, the statute mandates that in issuing any FMVSS or regulation, the agency consider whether the standard or regulation is ''reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed,'' and whether such a standard will contribute to carrying out the purpose of the Act. The Secretary is authorized to revoke such rules and regulations as he deems necessary to carry out this subchapter. Using this authority, the agency issued the following FMVSS and regulations, specifying labeling requirements to aid the agency in achieving many of its safety goals. FMVSS 105, 205, 209, and 567 are the standards the agency issued. Through FMVSS 105, this standard, under section 5.4 requiring labeling, each vehicle shall have a brake fluid warning statement in letters at least one-eighth of an inch high on the master cylinder reservoirs and located so as to be visible by direct view. FMVSS 205 requires manufacturer's distinctive trademark; manufacturer's DOT code number; Mode of glazing (alpha-numerical designation) and Type of glazing (there are currently 13 items of glazing ranging from plastic windows to bullet resistant windshields). In addition to requirements which apply to all glazing, certain specialty items such as standee windows in buses, roof openings and interior partitions made of plastic require that the manufacturer affix a removable label to each item. The label specifies cleaning instructions which will minimize the loss of transparency. Other information may be provided by the manufacturer but is not required. FMVSS 209-Seat belt Assemblies requires safety belts to be labeled with the year of manufacture, the; model and the name or trademark of the manufacturer (S4.5(j). Additionally, replacement safety belts that for specific models of motor vehicles must have labels or accompanying instruction sheets to specify the applicable vehicle models and seating positions (S4.5(k)). All other replacement belts are required to be accompanied by an installation instruction sheet (S4.1(k)). Seat belt assemblies installed as original equipment in new motor vehicles need not be required to be labeled with position model information. This information is only useful if the assembly is removed with the intention of using the assembly as a replacement in another vehicle; this is not a common practice. 49 U.S.C. 30111 requires each manufacturer or distributor of motor vehicle to furnish to the dealer or distributor of the vehicle a certification that the vehicle meets all applicable FMVSS. This certification is required by that provision to be in the form of a label permanently affixed to the vehicle. Under 49 U.S.C. 32504, vehicle manufacturers are directed to make a similar certification with regard to bumper standards. To implement this requirement, NHTSA issued 49 CFR Part 567. The agency's regulations establish form and content requirement for the certification labels.

*Estimated Annual Burden:* 71,095 hours.

*Number of Respondents:* 1214.

(12) *Title:* Compliance Labeling of Retroreflective Materials for Heavy Trailer Conspicuity.

*OMB Control Number:* 2127–0569.

*Affected Public:* Business or other for-profit.

*Abstract:* 49 U.S.C. 30111, 30112, and 30117 of the National Traffic and Motor Vehicle Safety Act of 1966 authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS) and the collection of data which supports their implementation. The agency, in prescribing a FMVSS, is to consider available relevant motor vehicle safety data, and to consult with other agencies as it deems appropriate. Further, the Act mandates, that in issuing any FMVSS, the agency consider whether the standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and whether such standards will contribute to carrying out the purpose of the Act. The Secretary is authorized to promulgate such rules and regulations as deemed necessary to carry out this subchapter. Using this authority, the agency issued the initial FMVSS No. 108, Lamps, Reflective Devices, and Associated Equipment, specifying requirements for vehicle lighting for the purpose of improved vehicle conspicuity, appropriate information transmission through signal lamps, in both day, night, and other conditions of reduced visibility. The standard has been amended numerous times, and the subject amendment, which became effective on December 1, 1993, increases the conspicuity of large trailers would be reduced by about 15 percent if retroreflective material having certain essential properties is used to mark the trailers. The amendment requires the permanent marking of the letters DOT–C2, DOT–C3 or DOT–C4 at least 3mm high at regular intervals on retroreflective sheeting material having adequate performance to provide

effective trailer conspicuity. The high reflective brightness of the material and its ability to reflect light which strikes it at an angle are special properties required by the safety standard. The high brightness is required because the material must be effective even when it is dirty. One of the principal goals of the standard is to prevent crashes in which the side of the trailer is blocking the road and it is not sufficiently visible at night to fast traffic. Frequently, the side of the trailer is not perpendicular to approaching traffic and the conspicuity material must reflect light which strikes it at an angle in order to be effective. There exist many types of retroreflective material similar in appearance to the required materials but lacking in its requisite properties. The manufacturers of new trailers are required to certify that their products are equipped with retroreflective material complying with the requirements of the standard. The Federal Highway Administration Office of Motor Carrier Safety enforces this and other standards through roadside inspections of trucks. There is no practical field test for the performance requirements, and labeling is the only objective way of distinguishing truck conspicuity grade material from lower performance material. Without labeling, FHWA will not be able to enforce the performance requirements, and labeling is the only objective way of distinguishing truck conspicuity grade material from lower performance material. Without labeling, FHWA will not be able to enforce the performance requirements of the standard, and the compliance testing of new trailers will be complicated. Labeling is also important to small trailer manufacturers because it may help them to certify compliance. As a result of the comments to the NPRM, the agency decided to allow wider stripes of material of lower brightness than originally proposed as alternate means of providing the minimum safety performance. Therefore, the marking system serves the additional role of identifying the minimum stripe width required for the retroreflective brightness of the particular material. Since the difference between the brightness grades of suitable retroreflective conspicuity material is not obvious from inspection, the marking system is necessary for trailer manufacturers and repair ships to assure compliance and for FHWA to inspect trailers in use.

*Estimated Annual Burden:* 0 hours.

*Number of Respondents:* 3.

(13) *Title:* Names and Addresses of First Purchasers of Motor Vehicles.

*OMB Control Number:* 2127–0044.

*Affected Public:* Business or other for-profit.

*Abstract:* 49 U.S.C. 30117 Providing information to, and maintaining records on, purchasers at subparagraph (b) Maintaining purchaser records and procedures states in part: A manufacturer of a motor vehicle or tire (except a retreaded tire) shall maintain a record of the name and address of the first purchasers of each vehicle or tire it produces and, to the extent prescribed by regulations of the Secretary, shall maintain a record of the name and address of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces. This agency has no regulation specifying how the information is to be collected or maintained. When NHTSA's authorizing statute was enacted in 1966, Congress determined that an efficient recall of defective or noncomplying motor vehicles required the vehicle manufacturers to retain an accurate record of vehicle purchasers. By virtue of quick and easy access to this information, the manufacturer is able to quickly notify vehicle owners in the event of a recall. Experience with this statutory provision has shown that manufacturers have retained this information in a manner sufficient to enable them to expeditiously notify vehicle purchasers in case of a recall. Based on this experience, NHTSA has determined that no regulation is needed. Without this type of information readily available, manufacturers would either need to spend more time or money to notify purchasers of a recall.

*Estimated Annual Burden:* 950,000.

*Number of Respondents:* 19,000.

(14) *Title:* 49 CFR Part 566 Manufacturers' Identification.

*OMB Control Number:* 2127–0043.

*Affected Public:* Business or other for-profit.

*Abstract:* The National Highway Traffic Safety Administration's statute at 49 U.S.C. 30118 Notification of defects and noncompliance requires manufacturers to determine if the motor vehicle or item or replacement equipment contains a defect related to motor vehicle safety or fails to comply with an applicable Federal Motor Vehicle Safety Standard. Following such a determination, the manufacturer is required to notify the Secretary of Transportation, owners, purchasers and dealers of motor vehicles or replacement equipment, of the defect or noncompliance and to remedy the defect or noncompliance without charge to the owner. With this determination, NHTSA issued 49 CFR Part 566, Manufacturer Identification. Part 566 requires every manufacturer of motor vehicles and/or replacement equipment to file with the agency on a one time basis, the required information specified in Part 566.

*Estimated Annual Burden:* 25.

*Number of Respondents:* 100.

(15) *Title:* 49 CFR Part 556, Petitions for Inconsequentiality.

*OMB Control Number:* 2127–0045.

*Affected Public:* Business or other for-profit.

*Abstract:* The National Highway Traffic Safety Administration's statute at 49 U.S.C. 30113 General exemptions at subsection (b) Authority to exempt and procedures, authorizes the Secretary of Transportation upon application of a manufacturer, to exempt the applicant from the notice and remedy requirements of 49 U.S.C. Charter 301, if the Secretary determines that the defect or noncompliance is inconsequential as ti relates to motor vehicle safety. The notice and remedy requirements of Chapter 301 are set forth in 49 U.S.C. 30120 Remedies for defects and noncompliance. Those section require a manufacturer of motor vehicles or motor vehicle equipment to notify distributors, dealers and purchasers if any of the manufacturer's products are determined either to contain a safety-related defect or to fail to comply with an applicable Federal motor vehicle safety standard. The manufacturer is under a concomitant obligation to remedy such defects or noncompliance. NHTSA exercised this statutory authority to excuse inconsequential defects or noncompliance when it promulgated 49 CFR Part 556, Petitions for Inconsequentiality—this regulation establishes the procedures for manufacturers to submit such petitions to the agency will use in evaluating those petitions. Part 556 allows the agency to ensure that petitions filed under 15 U.S.C. 30113(b) are both properly substantiated and efficiently processed.

*Estimated Annual Burden:* 30.

*Number of Respondents:* 15.

(16) *Title:* 49 CFR Part 573, Defect and Noncompliance Reports.

*OMB Control Number:* 2127–0004.

*Affected Public:* Business or other for-profit.

*Abstract:* NHTSA's statute at 49 U.S.C. sections 30112, and 30116–30121 requires the manufacturers of motor vehicles and motor vehicle equipment to recall and remedy their products that do not comply with applicable safety standards or contain a defect related to motor vehicle safety. The manufacturer must notify the Secretary of Transportation (through NHTSA),

owners, purchasers and dealers of its determination, and must remedy the defect or noncompliance. The notification must be furnished within a reasonable time after a determination is made with respect to defect or failure to comply. The manufacturer of each motor vehicle or item of replacement equipment presented for remedy shall make the remedy without charge. If a manufacturer fails to notify owners or purchasers within the period specified, the court may hold it liable under a civil penalty with respect to such failure.

The Secretary may hold hearings in which any interested person may make oral or written views on questions of whether a manufacturer has reasonably met its obligations to notify and remedy a defect or failure to comply, or the Secretary may place specific actions on the manufacturer to comply. The manufacturer shall furnish the Secretary with a true copy of all notices, bulletins, and other communications to the manufacturer's dealers, owners and purchasers regarding any defect or noncompliance in the manufacturer's vehicle or item of equipment. These statutes shall not create or affect any warranty obligations under State and Federal law. To implement this authority, NHTSA promulgated 49 CFR Part 573, Defect and Noncompliance Reports. This regulation sets out the following requirements: (1) Manufacturers are to include specific information in reports that must be filed with NHTSA within five working days of a determination of defect or noncompliance, pursuant to 49 U.S.C. 30118 and 30119; (2) Manufacturers are to submit quarterly reports to the agency on the progress of recall campaigns; (3) Manufacturers are to furnish copies to the agency of notices, bulletins, and other communications to dealers, owners, or purchasers regarding any defect or noncompliance, and; (4) Manufacturers are to retain records of owners or purchasers of their products that have been involved in a recall campaign.

*Estimated Annual Burden:* 6,300.

*Number of Respondents:* 50.

(17) *Title:* Consolidated Labeling Requirements for 49 CFR 571.115, and Parts 565, 541 and 567.

*OMB Control Number:* 2127–0510.

*Affected Public:* Business or other for-profit.

*Abstract:* NHTSA's statute at 15 U.S.C. 1392, 1397, 1401, 1407, and 1412 (Attachment 3–9) of the National Traffic and Motor Vehicle Safety Act of 1966 authorizes the issuance of Federal Motor Vehicle Safety Standard (FMVSS) and the collection of data which support their implementation. The agency, in prescribing a FMVSS, is to consider available relevant motor vehicle safety data and to consult with other agencies as it deems appropriate. Further, the Act mandates, that in issuing any FMVSS, the agency should consider whether the standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and whether such standards will contribute to carrying out the purpose of the Act. The Secretary is authorized to revoke such rules and regulations as deemed necessary to carry out this subchapter. Using this authority, the agency issued the initial FMVSS No. 115, Vehicle Identification Number, specifying requirements for vehicle identification numbers to aid the agency in achieving many of its safety goals.

The standard was amended in August 1978 by extending its applicability to additional classes of motor vehicles and by specifying the use of a 30-year, 17-character Vehicle Identification Number (VIN) for worldwide use. The standard was amended in May 1983 (Attachment 8) by deleting portions of FMVSS No. 115 and reissuing those portions as a general agency regulation, Part 565. The provisions of these two regulations require vehicle manufacturers to assign a unique VIN to each new vehicle and to inform the National Highway Traffic Safety Administration (NHTSA) of the code used in forming the VIN. These regulations apply to all vehicles: passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles.

b. 49 CFR Parts 541 and 567.

**Part 541**

The Motor Vehicle Information and Cost Savings Act was amended by the Anti-Car Theft Act of 1992 (Pub.L. 102–519). The enacted Theft Act states that passenger motor vehicles, multipurpose passenger vehicles, and light-duty trucks with a gross vehicle weight rating of 6,000 pounds or less be covered under the Theft Prevention Standard. Each major component part must be either labeled or affixed with the VIN and for the replacement component part it must be marked with the DOT symbol, the letter (R) and the manufacturers' logo.

**Part 567**

The VIN is required to appear on the certification label.

*Estimated Annual Burden:* 376,591.

*Number of Respondents:* 1,000.

Issued on: February 12, 1998.

**Herman L.Simms,**

*Associate Administrator.*

[FR Doc. 98–4089 Filed 2–18–98; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[TD 8223, TD 8432, and TD 8657]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final and temporary regulations, TD 8223, Branch Tax; TD 8432, Branch Profits Tax; and TD 8657, Regulations on Effectively Connected Income and the Branch Profits Tax (§§ 1.884–1, 1.884–2, 1.884–2T, 1.884–4, 1.884–5).

**DATES:** Written comments should be received on or before April 20, 1998 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* TD 8223, Branch Tax; TD 8432, Branch Profits Tax; and TD 8657, Regulations on Effectively Connected Income and the Branch Profits Tax.

*OMB Number:* 1545–1070.

*Regulation Project Number:* TD 8223, TD 8432, and TD 8657.

*Abstract:* These regulations provide guidance on how to comply with Internal Revenue Code section 884, which imposes a tax on the earnings of a foreign corporation's branch that are removed from the branch and which subjects interest paid by the branch, and

certain interest deducted by the foreign corporation, to tax.

*Current Actions:* There is no change to these existing regulations.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 28,500.

*Estimated Time Per Respondent:* 27 minutes.

*Estimated Total Annual Burden Hours:* 12,694.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 1998.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 98–4082 Filed 2–18–98; 8:45 am]

**BILLING CODE 4830–01–U**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[IA–146–81]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, IA–146–81 (TD 8269), Installment Method Reporting by Dealers in Personal Property; Change From Accrual to Installment Method Reporting (§ 1.453A–3).

**DATES:** Written comments should be received on or before April 20, 1998 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue, NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title*: Installment Method Reporting by Dealers in Personal

*Property:* Change From Accrual to Installment Method Reporting.

*OMB Number:* 1545–0963.

*Regulation Project Number:* IA–146–81.

*Abstract:* The regulations describe the procedure by which dealers in personal property may adopt or change to the installment method of accounting from another method of accounting.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, and business or other for-profit organizations.

*Estimated Number of Respondents:* 50,000.

*Estimated Time Per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 50,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request For Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 1998.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 98–4083 Filed 2–18–98; 8:45 am]

**BILLING CODE 4830–01–U**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 89–61

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 89–61, Imported Substances; Rules for Filing a Petition.

**DATES:** Written comments should be received on or before April 20, 1998 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue, NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Imported Substances; Rules for Filing a Petition.

*OMB Number:* 1545–1117.

*Notice Number:* Notice 89–61.

*Abstract:* Section 4671 of the Internal Revenue Code imposes a tax on the sale or use of certain imported taxable substances by the importer. Code section 4672 provides an initial list of taxable substances and provides that importers and exporters may petition the Secretary of the Treasury to modify the list. Notice 89–61 sets forth the procedures to be followed in petitioning the Secretary.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 100.

*Estimated Time Per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 1998.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 98–4084 Filed 2–18–98; 8:45 am]

**BILLING CODE 4830–01–U**

## UNITED STATES INFORMATION AGENCY

### Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''CHUCK CLOSE'' (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Museum of Modern Art, New York from February 26 to May 26, 1998, after which it will travel to the Museum of Contemporary Art in Chicago for exhibition June 20 to September 13, 1998 and then to the Hirshhorn Museum and Sculpture Garden in Washington, DC from October 15, 1998 to January 10, 1999, and finally to the Seattle Art Museum from February 18 to May 9, 1999 is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: February 13, 1998.

**R. Wallace Stuart,**

*Acting General Counsel.*

[FR Doc. 98–4225 Filed 2–18–98; 8:45 am]

**BILLING CODE 8230–01–M**

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at (202) 619–5030. The address is U.S. Information Agency, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0546]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** National Cemetery System, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the National Cemetery System (NCS), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 23, 1998.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0546.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* Adjacent Gravesite Set-Aside Survey (2 Year), VA Form Letter 40–40.

*OMB Control Number:* 2900–0546.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* In the past, the survey was conducted annually. VA Form Letter 40–40 will be sent biennially (once every two years on a 24 month rotating basis) to individuals holding gravesite set-asides in national cemeteries to ascertain their wish to retain their set-aside, or wish to relinquish it. The collection of information is necessary to assure that gravesite set-asides are not wasted. Some holders become ineligible, are buried elsewhere, or simply wish to cancel a gravesite set-aside for them. Without this information, unused set-asides would exist which could be used by other veterans.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 13, 1997 at page 60936.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 3,000 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* Biennially.

*Estimated Number of Annual Respondents:* 18,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to ''OMB Control No. 2900–0546'' in any correspondence.

Dated: January 26, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 98–4133 Filed 2–18–98; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0074]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 23, 1998.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0074.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* Request for change of Program or Place of Training, VA Form 22–1995.

*OMB Control Number:* 2900–0074.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* VA uses the information on the form to determine continued eligibility for educational benefits, and to monitor the number of time a veteran, person on active duty, or person in the Selected Reserve has Changed his or her educational objectives or place of training.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 27, 1997 at page 55671.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 46,000 hours.

*Estimated Average Burden Per Respondent:* 20 minutes.

*Frequency of Response:* On Occasion.

Estimated Number of Respondents: 138,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0074'' in any correspondence.

Dated: January 26, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 98–4134 Filed 2–18–98; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0495]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 23, 1998.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0495.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* Marital Status Questionnaire, VA Form 21–0537.

*OMB Control Number:* 2900–0495.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* This form is used to confirm the marital status of a surviving spouse in receipt of dependency and indemnity compensation (DIC) benefits. If a surviving spouse remarries, he or she is no longer entitled to DIC. The information collected is used to determine whether a surviving spouse is still entitled to DIC benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 27, 1997 at page 55673.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 2,875 hours.

*Estimated Average Burden Per Respondent:* 5 minutes.

*Frequency of Response:* Reporting on Occasion.

*Estimated Number of Respondents:* 34,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to ''OMB Control No. 2900–0495'' in any correspondence.

Dated: January 26, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 98–4135 Filed 2–18–98; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0012]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 23, 1998.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0012.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Numbers:* Application for Cash Surrender or Policy Loan, VA Form 29–1546.

*OMB Control Number:* 2900–0012.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The form is used by the insured to apply for cash surrender value or policy loan on his/her Government Life Insurance. The information is used by the VBA to process the insured's request for a loan or cash surrender.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 30, 1997 at page 58777.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 4,939 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 29,636.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to ''OMB Control No. 2900–0012'' in any correspondence.

Dated: January 26, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 98–4136 Filed 2–18–98; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0396]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 23, 1998.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0396.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* Certification of Training (Under the Service Members Occupational Conversion and Training Act), VA Form 22–8929.

*OMB Control Number:* 2900–0396.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* Public Law 102–484 established the Service Members Occupational Conversion and Training Act (SMOCTA). Section 4467 requires monthly or quarterly certification of training under SMOCTA. An employer uses VA Form 22–8929 to advise VA of: (1) The number of hours a veteran has worked in an approved program during each month; (2) the amount and date of payment the employer has made to the veteran for the purchase of any tools and work-related equipment; and (3) the training status of the veteran (e.g., currently training, satisfactorily completed training, quit, laid off, etc.). Continued use of VA Form 22–8929 is necessary to authorize reimbursement to an employer.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 6, 1997 at page 60121.

*Affected Public:* Business or other for-profit, individuals or households, State, Local or Tribal Government, and not-for-profit institutions.

*Estimated Annual Burden:* 500 hours.

*Estimated Average Burden Per Respondent:* 30 minutes per application.

*Estimated Annual Recordkeeping Burden:* 85 hours.

*Estimated Average Burden Per Recordkeeper:* 1 hour.

*Frequency of Response:* Monthly or Quarterly.

*Estimated Number of Respondents:* 1,000.

*Estimated Number of Recordkeepers:* 85.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0396'' in any correspondence.

Dated: January 26, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director Information Management Service.*

[FR Doc. 98–4137 Filed 2–18–98; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974; Report of Matching Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Department of Justice, Bureau of Prison (BOP), inmate records with VA pension, compensation, and dependency and indemnity compensation (DIC) records. The goal of this match is to identify incarcerated veterans and beneficiaries who are receiving VA benefits, and to reduce or terminate benefits, if appropriate. The match will include records of current VA beneficiaries.

**DATES:** The match is estimated to start April 1, 1998, but will start no sooner than 30 days after publication of this notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their BIDs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

**ADDRESSES:** Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to conduct the matching program to the Director, Office of Regulations Management 02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1158, 810 Vermont Avenue, NW, Washington, DC 20420, between 8 a.m. and 4:30 p.m., Monday through Fridays except holidays.

**FOR FURTHER INFORMATION CONTACT:** Paul Trowbridge (213B), (202) 273–7218.

**SUPPLEMENTARY INFORMATION:** VA will use this information to verify incarceration and adjust VA benefit payments as prescribed by law. The proposed matching program will enable VA to accurately identify beneficiaries who are incarcerated for a felony or a misdemeanor in a Federal penal facility.

The legal authority to conduct this match is 38 U.S.C. 1505, 5105, and 5313. Section 5106 requires any Federal department or agency to provide VA such information as VA requests for the purposes of determining eligibility for, or the amount of VA benefits, or verifying other information with respect thereto. Section 1505 provides that no VA pension benefits shall be paid to or for any person eligible for such benefits, during the period of that person's incarceration as the result of conviction of a felony or misdemeanor, beginning on the sixty-first day of incarceration. Section 5313 provides that VA compensation or dependency and indemnity compensation above a specified amount shall not be paid to any person eligible for such benefits, during the period of that persons' incarceration as the result of conviction of a felony, beginning on the sixty-first day of incarceration.

The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 9294 (March 3, 1976) and last amended at 60 FR 20156 (April 24, 1995). The BOP records consist of information from the system of records identified as Inmate Records System, BOP #005 published on June 7, 1984 (48 FR 23711). In accordance with Title 5 U.S.C. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget. This notice is provided in accordance with the provisions of Privacy Act of 1974 as amended by Public Law 100–503.

Approved: February 9, 1998.

**Togo D. West, Jr.,**

*Acting Secretary of Veterans Affairs.*

[FR Doc. 98–4226 Filed 2–18–98; 8:45 am]

BILLING CODE 8320–01–M

# Corrections

**Federal Register**
Vol. 63, No. 33
Thursday, February 19, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[REG–243025–96]**

**RIN 1545–AU61**

### Tax Treatment of Cafeteria Plans

*Correction*

In proposed rule document 97–29086, beginning on page 60196, in the issue of Friday, November 7, 1997, make the following corrections:

1. On page 60196, in the second column, in the **ADDRESSES** section, the IRS internet address should read, ''http://www.irs.ustreas.gov/prod/tax_regs/comments.html''

**§ 1.125–2 [Corrected]**

2. On page 60197, in the second column, in § 1.125–2 A-6 (c), in the last line, ''§ 1.125-1T'' should read ''§ 1.125-4T''.

**BILLING CODE 1505-01-D**

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 8738]**

**RIN 1545–AV43**

### Tax Treatment of Cafeteria Plans

*Correction*

In rule document 97–29087 beginning on page 60165, in the issue of Friday, November 7, 1997, make the following corrections:

**§ 1.125–4T [Corrected]**

1. On page 60167, in the first column, in § 1.125–4T, paragraph (c)(3)(1) and (2) only the paragraph designations should be italicized, not the text.

2. On page 60168, in the second column, in Example 5, paragraph (i), in the 6th and 10th line ''P s'' should read ''P's''.

3. On the same page, in the same column, in Example 6, paragraph (ii), in the 10th line ''L s'' should read ''L's''.

4. On the same page, in the third, paragraph, in Example 9, paragraph (i), in the 12th line, ''W s'' should read ''W's''.

**BILLING CODE 1505-01-D**

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[REG–209476–82]**

**RIN 1545–AE41**

### Loans to Plan Participants

*Correction*

In proposed rule document 97–33983 beginning on page 42, in the issue of Friday, January 2, 1998, make the following corrections:

**PART 1 [CORRECTED]**

1. On page 43, in the third column, in the Authority citation, ''126'' should read ''26''.

**§ 1.72(p)-1 [Corrected]**

2. On page 44, in the second column, in § 1.72(p)-1, in paragraph A-21(c)(1), in the ninth line, ''transaction'' should read ''transition''.

**BILLING CODE 1505-01-D**

## Department of the Treasury

## Internal Revenue Service

## 26 CFR Part 1

**[TD 8755]**

**RIN 1545–AV74**

### Qualified Zone Academy Bonds

*Correction*

In rule document 98–21 beginning on page 671, in the issue of Wednesday, January 7, 1998, make the following correction:

**§ 1.1397E–1T [Corrected]**

On page 673, in the second column, in § 1.1397E–1T(e)(1), in the 14th line, ''taxpayer s'' should read ''taxpayer's''.

**BILLING CODE 1505-01-D**

Federal Register

Thursday
February 19, 1998

## Part II

# Department of Education

**Office of Special and Rehabilitative Services; Grants and Cooperative Agreements: Availability, etc.: Children With Disabilities Programs; Notice**

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services; Grants and Cooperative Agreements: Availability, etc.: Children With Disabilities Programs; Notice

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed priorities.

**SUMMARY:** The Secretary proposes priorities for two programs administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act (IDEA), as amended. The Secretary may use these priorities in Fiscal Year 1998 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve results for children with disabilities. The proposed priorities are intended to ensure wide and effective use of program funds.

**DATES:** Comments on all proposed priorities must be received on or before March 23, 1998.

**ADDRESSES:** All comments concerning proposed priorities should be addressed to: Debra Sturdivant, U.S. Department of Education, 600 Independence Avenue, SW, Room 3521, Switzer Building, Washington, D.C. 20202–2641.

Comments may also be sent through the Internet: comments@ed.gov

You must include the term ''Technical Assistance and Dissemination and Research and Innovation'' in the electronic message.

**FOR FURTHER INFORMATION CONTACT:** For further information on these proposed priorities contact Debra Sturdivant, U.S. Department of Education, 600 Independence Avenue, SW, room 3317, Switzer Building, Washington, D.C. 20202–2641. FAX: (202) 205–8717 (FAX is the preferred method for requesting information). Telephone: (202) 205–8038. Internet: Debra__Sturdivant@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by calling (202) 205–8113.

**SUPPLEMENTARY INFORMATION:** This notice contains three proposed priorities under two programs authorized by the Individuals with Disabilities Education Act, as follows: Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (two proposed priorities); and Research and Innovation to Improve Services and Results for Children with Disabilities (one proposed priority). These proposed priorities would support the National Education Goals by helping to improve results for children with disabilities.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the content of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

### General Requirements

All projects funded under the proposed priorities must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA). In addition, all applicants and projects funded under the proposed priorities must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA).

**Note:** This notice of proposed priorities does *not* solicit applications. Notices inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

### Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities

*Purpose of Program*

The purpose of this program is to provide technical assistance and information through such mechanisms as institutes, regional resource centers, clearinghouses, and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and to address systemic-change goals and priorities.

*Priorities*

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet one of the following priorities. The Secretary proposes to fund under these competitions only applications that meet one of these absolute priorities:

### Proposed Absolute Priority 1—Center for Positive Behavioral Interventions and Supports

*Background*

Problem behaviors are one of the most common reasons children with disabilities are excluded from school, community, and work. Research on positive behavioral support is rapidly developing and demonstrates how school-wide approaches to positive behavioral interventions can enable students with disabilities who exhibit problem behaviors to achieve independence and become participants and contributing members in school, community, and work.

Despite this growing body of knowledge, however, awareness of the value of these approaches and their use in the educational environment remains limited. There is clearly a need to develop a greater awareness on the part of educators and others of the important contribution that positive behavioral interventions can make in achieving successful results for children with disabilities who exhibit challenging problem behaviors and for improving the overall climate of schools.

Part B of IDEA includes provisions intended to guide and assist schools in cases in which the behavior of a child with a disability impedes learning. For example, the Act specifies that teams developing individualized education programs (IEPs) consider, when appropriate, positive behavioral supports and other strategies to address behavior problems. The following priority is intended to assist schools in designing and implementing effective school-wide positive behavioral support programs by creating a greater awareness of these approaches, including identifying effective State and local policies which support the approaches, and by building the necessary knowledge base, momentum, and resource network to encourage their widespread application.

*Priority*

The Secretary proposes to establish an absolute priority to support a Center for Positive Behavioral Interventions and Supports that builds awareness and motivation for schools to design and implement school-wide support for children with disabilities who exhibit challenging problem behaviors. The Center must, at a minimum:

(a) Evaluate the state of policy and practice regarding school-wide behavioral support, including relevant State and local policies and guidelines, and financing and cross-agency coordination strategies for supporting

behavioral intervention services. Develop and apply criteria for identifying exemplary programs of school-wide positive behavioral support. Identify and publicize schools implementing such programs.

(b) Establish a coordinated network of researchers, educators, parents, mental health professionals, and policymakers who will serve as resources to schools and each other in designing and implementing school-wide positive behavioral support programs. Conduct outreach activities with relevant federally supported technical assistance and information activities and projects (e.g., the National Institute of Disability and Rehabilitation Research programs, the Federal Resource Center, regional resource centers, the Office of Educational Research and Improvement (OERI), the Office of Elementary and Secondary Education's Safe and Drug Free Schools program, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention, etc.), State and local organizations and other relevant organizations and projects to promote public awareness of positive behavioral support practices and the availability of information, supports and services.

(c) Provide for information exchanges between researchers and practitioners who direct exemplary behavioral support programs and educators who seek to design and implement effective school-wide programs. The exchanges must include, but are not limited to, two regional forums during each of the first four years of the project, and a national forum in the fifth year. The forums must be designed to expand the coordinated network, develop awareness of research-based practices, and create a dialogue about school-wide positive behavioral support programs. The forums must include examples and descriptions of exemplary school-wide programs and effective State and local policies, and may include other appropriate activities such as visits to exemplary sites.

(d) Provide information to the national information center for children with disabilities. Collaborate with the national information center for children with disabilities on the development and dissemination of materials on behavioral intervention and supports. Establish linkages with the national information center for children with disabilities to ensure timely and accurate dissemination of information to customers.

(e) Organize, synthesize, and report information to teachers, administrators, parents, and other interested parties regarding research, policy, and practice advances on positive behavioral support. Develop and disseminate products that are easy to use and accessible (e.g., print and electronic formats). Respond to written and telephone inquiries with research-based information.

(f) Develop and implement a blueprint for providing technical assistance to local educational agencies (LEAs), which includes alternative designs of effective school wide positive behavioral support programs and alternative approaches to delivering technical assistance in their implementation. Identify barriers to assisting school districts across the country in developing and implementing school-wide positive behavioral support programs and develop strategies for overcoming these barriers.

(g) Budget for two trips annually to Washington, D.C., for: (1) A two-day Research to Practice Division Project Directors' meeting; and (2) a meeting to collaborate with the Research to Practice Division project officer and the other related projects, and to share information and discuss findings and methods of dissemination.

(h) Conduct, every two years, a results-based evaluation of the technical assistance provided. Such an evaluation must be conducted by a review team consisting of three experts approved by the Secretary and must measure elements such as—

(1) The type of technical assistance provided and the perception of its quality by the target audience;

(2) The changes that occurred as a result of the technical assistance provided; and

(3) The review team will examine the progress that the Center has made with respect to the objectives in its application.

The services of the review team, including a two-day site visit to the Center is to be performed during the last half of the center's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the Center's budget for year two. These costs are estimated to be approximately $4,000.

Under this priority, the Secretary will make one award for cooperative agreements with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the center for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or is being met by the Center; and

(b) The degree to which the Center's design and methodology demonstrates the potential for advancing significant new knowledge.

**Proposed Absolute Priority 2—National Center on Dispute Resolution**

*Background*

Disputes within the education community affect systemic change and results for children with disabilities. A dispute resolution process such as mediation is less costly to schools and families, can help to minimize adverse effects on a child's progress in school, and is more apt to foster positive relationships between families and educators than litigation. Technical assistance that focuses primarily on dispute resolution procedures would assist State educational agencies (SEAs), local educational agencies (LEAs), and families to resolve their differences in a less adversarial and more responsive manner than through standard due process hearing procedures, while enabling State and local entities to achieve systemic change and promoting improved early intervention, educational, and transitional results for children with disabilities. This priority would support a national center to provide technical assistance to SEAs, LEAs, and families on resolving their differences. The center would provide technical assistance on mediation and other effective dispute resolution procedures that do not impede parental rights under IDEA or otherwise conflict with the statute. As such the center would provide technical assistance as needed in order to facilitate the effective use of due process procedures. The chief aim of the center however, would be to provide needed technical assistance to enable parties to effectively resolve their disputes through more expedient and less confrontational means, including mediation.

*Priority*

The Secretary establishes an absolute priority to support a national technical assistance center on dispute resolution procedures, including mediation. The center must—

(a) Provide technical assistance on dispute resolution procedures (with an emphasis on procedures other than due process hearings) to all States, outlying areas, and the freely associated States (to the extent such States participate in Parts B or C of IDEA), and the Bureau

of Indian Affairs. At a minimum, the center must—

(1) Conduct annual needs assessments;

(2) Develop technical assistance agreements with each entity; and

(3) Provide technical assistance, training, and on-going consultation based on the technical assistance agreements (including technical assistance, training, and on-going consultation at the local level, as appropriate).

(b) Coordinate with the existing technical assistance to parent project to provide technical assistance to all parent training and information centers and community parent resource centers on dispute resolution procedures;

(c) Develop informational exchanges about dispute resolution procedures between the center and other technical assistance and information dissemination systems;

(d) Establish an advisory group of persons with complementary expertise on dispute resolution procedures to advise the center on its technical assistance activities;

(e) Collect information on the use and effectiveness of mediation and other dispute resolution procedures. The effectiveness of any such procedure would be based on the degree to which all parties feel satisfied with the result and agree that an efficient and expeditious process had been followed;

(f) Identify, and disseminate information on, best practices in dispute resolution;

(g) Maintain an information data base that includes: (1) State practices on dispute resolution, including information on mediator training and the implementation of the mediation requirements in Parts B and C of IDEA; and (2) research, literature, and products about dispute resolution procedures.

(h) Examine the effectiveness of State efforts regarding mediation and other dispute resolution proceedings. Analyze information on the number of due process hearings, mediation sessions, and other dispute resolution proceedings conducted and on the outcome of each such hearing, session, or proceeding;

(i) Collaborate with the national information center on children with disabilities regarding the dissemination of information to respond to information needs. Establish linkages with the national information center on children with disabilities to ensure timely and accurate dissemination of information to customers;

(j) Serve as a clearinghouse for information on dispute resolution procedures;

(k) Conduct an annual forum each year of the project that identifies the unique features of dispute resolution procedures, the strengths of the procedures, and the potential for adopting the procedures. At least one forum must address the specific needs of under represented and underserved populations; another must address dispute resolution procedures (including mediator training issues) in the context of general education reform;

(l) Evaluate the impact of the center's technical assistance system and its components relative to the—

(1) Assessed needs of States and jurisdictions;

(2) Needs of parents; and

(3) Linkages with other technical assistance and information dissemination systems; and

(m) Budget for two trips annually to Washington, D.C., for: (1) A two-day Research to Practice Division Project Directors' meeting; and (2) a meeting to collaborate with the Research to Practice Division project officer and the other related projects to share information, and to discuss findings and methods of dissemination.

(n) Conduct, every two years, a results-based evaluation of the technical assistance provided. Such an evaluation must be conducted by a review team consisting of three experts approved by the Secretary and must measure elements such as—

(1) The type of technical assistance provided and the perception of its quality by the target audience; and

(2) The changes that occurred as a result of the technical assistance provided; and

(3) The review team will examine the progress that the Center has made with respect to the objectives in its application.

The services of the review team, including a two-day site visit to the center is to be performed during the last half of the center's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the center's budget for year two. These costs are estimated to be approximately $4,000.

Under this priority, the Secretary will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the center for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or is being met by the center.

(b) The degree to which the center's design and methodology demonstrates the potential for advancing significant new knowledge.

Program Authority: Section 685 of IDEA.

**Research and Innovation to Improve Services and Results for Children With Disabilities**

*Purpose of Program*

To produce, and advance the use of, knowledge to: (1) Improve services provided under IDEA, including the practices of professionals and others involved in providing those services to children with disabilities; and (2) improve educational and early intervention results for infants, toddlers, and children with disabilities.

*Priority*

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority.

*Proposed Absolute Priority—Directed Research Projects*

This priority provides support for projects that advance and improve the knowledge base and improve the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children with disabilities in regular education environments and natural environments, to provide those children effective instruction and interventions that enable them to learn and develop successfully. Under this priority, projects must support innovation, development, exchange of information, and use of advancements in knowledge and practice designed to contribute to the improvement of early intervention, instruction, and learning of infants, toddlers, and children with disabilities.

A research project must address one of the following focus areas and the Secretary intends to award at least one project in each focus area:

*Focus 1—Beacons of Excellence*

Research projects supported under Focus 1 must identify and study schools or programs achieving exemplary results for students with disabilities in the

context of efforts to achieve exemplary results for all students. Projects must develop and apply procedures and criteria to identify these schools or programs, and to identify factors contributing to exemplary learning or developmental results, and examine how those factors and other factors relate to achieving exemplary learning or developmental results for children with disabilities. Projects may focus on early intervention, preschool, elementary, or secondary levels, or a combination of levels. Following the second year of the project, the Secretary may fund an optional six-month period for additional dissemination activities.

*Focus 2—The Sustainability of Promising Innovations*

A growing body of practice-based research and model demonstration work in schools, local districts, and early intervention programs, including projects supported by the Office of Special Education Programs (OSEP), has focused on meeting the needs of, and improving results for, children with disabilities in schools, districts, or early intervention programs involved in reform and restructuring initiatives. Some of this work is yielding promising positive results for children with disabilities. However, little is known about the extent to which the innovations developed and implemented in these efforts are sustained in project sites beyond the term of time-limited external support and assistance.

Focus 2 supports projects to study the implementation of practices that have been found to be effective in meeting the needs of children with disabilities by reform and restructuring initiatives in local and district schools, or early intervention programs. The study must address: (a) The extent to which practices that have been shown to be effective have been sustained beyond the existence of the projects; and (b) factors that influence the level of sustainability. Factors to be studied may include, but are not limited to: (a) The nature of the innovations and the extent to which the innovations have undergone adaptation or alteration over time; (b) the type and extent of support strategies employed during initial implementation stages and over time; (c) planned and unplanned changes in agency, school organizational or structural contexts, or both; (d) the level of penetration of the innovation; (e) the actual or perceived, or both, cost and benefit for participants; (f) constancy of site leadership, staff, and policy requirements; (g) the extent of consonance or dissonance between critical features of the innovations and existing (and emerging) school and district or agency practices and policies; and (h) resource access and allocation. Projects must provide comprehensive descriptions of the targeted effective practices to be studied, and evidence of positive results for children with disabilities. In addition, projects must dedicate the bulk of support requested to research on the issues of sustainability including the ability to sustain the project results beyond the life of the project. The Secretary particularly encourages an in-depth case study research design where the site or sites to be studied is the case (unit of analysis).

*Focus 3—Research on Improving Reading Comprehension Results for Children With Learning Disabilities*

In recent years, research has advanced our understanding of how skilled readers comprehend and instructional strategies that support children with learning disabilities to comprehend text. Comprehension is not merely a text-based process where meaning resides in the text and the role of the reader is to get the meaning. Meaning comes from both the text and the reader. Many children with learning disabilities need an instructional program that: (a) Teaches them how to access prior knowledge (e.g., strategies such as story grammar elements, semantic mapping, or think aloud sheets); (b) motivates and supports persistence on a task (e.g., including expressions of a student's own thoughts when reading and writing, questioning the expert or inquiry, or using technology or grouping practices); and (c) teaches them cognitive and metacognitive strategies for reading with understanding, including how to monitor one's own progress (e.g., summarizing, generating questions, mnemonics, or imagery). Therefore, becoming a skilled reader is not automatic. Teachers need to teach reading comprehension, and, in particular, children with learning disabilities need effective instructional approaches.

Under Focus 3, a research project must pursue a systematic program of applied research that focuses on one or more issues related to improving reading comprehension results of children with learning disabilities related to reading. These issues include, but are not limited to:

(a) The extent to which children with learning disabilities need differential strategies to comprehend narrative and expository text;

(b) The types of effective comprehension instruction for children with learning disabilities in grades K–2, 3–5, and 6–8 inclusive; the components of particularly effective programs for children with learning disabilities; the basal materials, supplemental materials, and instructional strategies used by teachers; and how families support the instructional program;

(c) The types of effective questioning strategies used by teachers, peers, and experts affecting comprehension; and

(d) The kind of contexts that promote critical analysis and evaluation for comprehension and learning, and the grouping practices, instructional strategies, and curricula that promote comprehension and problem solving.

*Focus 4—Studying Models That Bridge the Gap Between Research and Practice*

Educational research most often includes the following phases: (1) Planning and preparation; (2) information gathering; (3) analysis and interpretation; (4) reporting and dissemination; and (5) use of findings. In traditional research models, the researcher is solely or primarily responsible for all phases but the last. Using research findings is seen as a job for the practitioner. However, it has been observed that research knowledge rarely translates directly into practice.

In recent years, a variety of promising models have been developed to bridge the gap between research and practice by altering the roles of researchers and practitioners for one or more phases of the research. In some models (e.g., interactive research and development, practitioner-researcher, partnership research) researchers and practitioners collaborate in all phases of the research process. Some of these models include parents on their site-based research teams. In other models, practitioners, working individually (e.g., practitioner-research linkers), in groups (e.g., practitioner study groups), or in pairs (e.g., peer coaching) interpret extant research to understand how to integrate research into practice. In some models, teachers conduct research (e.g., action research, or collegial experimentation). To date there have been few systematic examinations of the effectiveness of the various models to improve practice in special education or early intervention.

Under Focus 4, research projects must implement and examine a model or models for using research knowledge to improve educational practice and results for children with disabilities.

In studying a model or models, projects must apply methodologies with the capacity to determine the effectiveness of the model or models as implemented in practice settings. The projects must identify the knowledge

utilization model or models to be studied, specify the components of the knowledge utilization model or models selected or created, the supports and policies necessary to support the model or models, both alterable and unalterable factors affecting practice improvement, and the effect of the model or models to improve organizational culture, practitioner attitudes and practices, and child results. In judging effectiveness, the projects must address improvements for researchers, practitioners, and children with disabilities.

The projects must report their findings in a manner which can serve as a ''blueprint'' so that practitioners in other school districts or agencies can implement the model using research knowledge to improve practice in special education or early intervention.

*Focus 5—Inclusion of Students With Disabilities in Large-Scale Assessment Programs*

IDEA includes a number of provisions to ensure the participation of students with disabilities in general State and district-wide assessment programs. Students with disabilities must participate in large-scale assessment programs if they are to benefit from the educational accountability and reforms that are linked to these assessments. While much information has been gained from prior efforts to include disabled students in assessments such as the National Assessment of Educational Progress, applied research is needed to build on this base of information in order to provide technical and implementation information to guide the effective inclusion of students with disabilities in large-scale assessment programs.

Focus 5 supports projects that pursue systematic programs of applied research to determine how State and local educational programs can best meet one or more of the following requirements:

(a) Including students with disabilities in either general State or district-wide assessment programs or both;

(b) Developing and using appropriate accommodations for students with disabilities on general State or district-wide assessments, or both;

(c) Developing and using alternate assessments for students with disabilities who cannot participate in State and district-wide assessment programs;

(d) Reporting on the participation or performance or both of students with disabilities in either general assessment programs, or on alternate assessments, or both; and

(e) Making decisions during the development of individualized education programs concerning individual modifications in the administration of State or district-wide assessments, or individual participation in alternate assessments.

*Focus 6—Synthesize and Communicate a Professional Knowledge Base: Contributions to Research and Practice*

Traditionally researchers have communicated their findings from individual research projects and systematic lines of research through journal publications and conference presentations. These findings are communicated to other researchers and engage researchers in dialogues. These dialogues contribute to innovation and development in special education and early intervention. In recent years the Office of Special Education Programs (OSEP) has sought to expand these traditional approaches. While continuing to support innovation and development, OSEP has established a goal to foster the use of a professional knowledge base by professionals who serve children with disabilities and parents who are involved in the education and development of their children with disabilities.

Focus 6 supports projects that synthesize and communicate an extant professional knowledge base on curricular, instructional, early intervention, or organizational strategies and approaches that would contribute to professional practice as a means for achieving better results for children with disabilities. In past years, the Department has supported syntheses on positive behavioral supports of children who exhibit challenging behaviors, grouping practices in reading, differences between children with learning disabilities and low achieving students, instructional approaches for special education students who speak English as a second language, generalization strategies for using augmentative communication devices, interventions for children with learning disabilities, and effects of setting on social and academic outcomes. Building upon these previous efforts, the Secretary intends to support and fund a limited number of new syntheses in other areas such as—

(a) Effects of self-determination and self-advocacy interventions on children with disabilities;

(b) Effects of interventions on children with disabilities that promote generalization of academic or developmental skills;

(c) Effects of teacher or practitioner efficacy on children with disabilities' achievement or development;

(d) Effects of technology for improving literacy results for children with disabilities;

(e) Effects of school-wide approaches for improving reading results of children with disabilities; or

(f) Effects of school-wide approaches for improving math results of children with disabilities.

Under Focus 6, a synthesis project must—

(a) Identify the topical focus and the relevant and irrelevant concepts under review, and pose hypotheses around which the synthesis would be conducted;

(b) Identify and implement rigorous social science methods for synthesizing the professional knowledge base (e.g., integrative reviews (Cooper, 1982), best-evidence synthesis (Slavin, 1989), meta-analysis (Glass, 1977), multi-vocal approach (Ogawa & Malen, 1991), and National Institute of Mental Health consensus development program (Huberman, 1977));

(c) Develop hypotheses with input from potential consumers of the synthesis to enhance the usability and validity of project efforts. Consumers include researchers, technical assistance providers, policy makers, educators, other relevant practitioners, individuals with disabilities, and parents;

(d) Develop linkage of synthesis with technical assistance providers and disseminators and prepare products for use by practitioners, technical assistance providers, and disseminators;

(e) Implement procedures for locating and organizing the extant literature and ensure that these procedures address and guard against potential threats to the integrity, including generalization of findings;

(f) Establish criteria and procedures for judging the appropriateness of studies;

(g) Meet with the Office of Special Education Programs to review the project's topical focus and methodological approach for conducting the synthesis prior to the start of its synthesis;

(h) Analyze and interpret the professional knowledge base, including identification of general trends in the literature, points of consensus and conflict among the findings, and areas of evidence where the literature base is lacking. The interpretation of the literature base must address the contributions of the findings for improving the practice of professionals serving children with disabilities; and

(i) Submit a draft report in the 21st month of the project and, based on peer reviews, revise and submit a final report of the synthesis in the 24th month. During the second year of the project, the Secretary may fund an optional six-month period for additional dissemination activities.

*Focus 7—Improving the Delivery of Special Education and Related Services or Early Intervention Services to Children Who Are English Language Learners*

Appropriate instruction and intervention for children with disabilities who are limited in their English language proficiency can be achieved in a variety of ways. Ultimately, the responsibility for assuring that the English language learner is receiving appropriate access to the curriculum or intervention rests with the school district or agency in its provision of necessary training and ongoing support to the teachers or practitioners. Providing native speakers of the child's language in the classroom or intervention program, including parents, may not be sufficient to assure delivery of appropriate education or interventions. Limitations of resources and availability of qualified bilingual personnel to provide special education, related services, or early intervention services throughout the Nation suggest that other approaches should be investigated that will enhance the availability and assurance of the provision of meaningful education.

Under Focus 7 projects must pursue a systematic program of applied research that focuses on one or more areas related to improved approaches to the delivery of special education and related services or early intervention services to children who are English language learners. These areas may include, for example—

(a) Examination of early reading practices (K–3) for children with learning and behavior issues who are limited in their English proficiency;

(b) Improvement of reading comprehension in content area instruction in grades 4–8;

(c) Examination of alternatives in the delivery of services to children with disabilities who are English language learners (e.g., is placement optimal in regular classes or programs with support from special education resources or is the child better served in placements with other children with similar disabilities with support from bilingual resources?);

(d) The role cultural issues play in the provision of services (e.g., how do the perceptions of families regarding disabilities and services affect delivery of services?);

(e) The preferred strategies to support the transition from bilingual to mainstream English speaking classes or programs (e.g., what teaching or intervention strategies are most effective?);

(f) Examination of specific instructional approaches that promote problem solving and comprehension in reading, science, math, and social studies;

(g) Examination of instructional or intervention approaches for growth in English language learning for these children;

(h) Factors that improve the effectiveness of cooperative learning and classwide peer tutoring for English language learners;

(i) The techniques that improve the transfer of proven practices to practitioner; and

(j) The qualitative differences that exist in implementation of proven practices with practitioner and children who are English language learners who are located in inner-city schools or served through inner-city agencies (e.g., what is the involvement of families).

*Focus 8—Educating Children With Disabilities in Inclusive Settings*

Focus 8 supports research projects to (a) identify new or improved systems change strategies that provide all children with disabilities, including children with severe disabilities, effective access to the general curriculum in regular classrooms as well as to nonsegregated extracurricular activities, and (b) describe how these school inclusion efforts as identified in (a) are aligned with systemic reform and school improvement strategies for all students.

Each project will identify, describe, and examine: (1) The efficacy and linkages of existing systemic reform and school inclusion strategies; (2) how school systems provide administrative and other supports in general education settings to meet the needs of students with disabilities and other diverse learners; (3) how standards established for all children and authentic assessment practices are implemented for students with disabilities, and (4) social support strategies, including peer mediated strategies, that promote positive interactions among students with disabilities and their same-aged peers to foster cohesive school and classroom communities.

To be considered for funding under Focus 8, a research project must—

(a) Identify specific interventions or strategies to be investigated;

(b) Design the research activities in a manner that is likely to improve services for all students in inclusive classrooms, including students with severe disabilities;

(c) Conduct the research in schools pursuing systemic education reform and school inclusion; and

(d) Use methodological procedures designed to produce findings useful to program implementers and policy makers regarding the impact and interaction effects of systemic reform and school inclusion strategies in State and local contexts and demonstrate the benefits to students including the reciprocal benefits of inclusive schooling for all students.

*Requirements for All Directed Research Projects*

In addition to addressing one of the above mentioned focus areas, projects must—

(a) Apply rigorous research methods (qualitative or quantitative, or both) to identify approaches contributing to improved results for children with disabilities;

(b) Provide a conceptual framework, based on extant research and theory to serve as a basis for the issues to be studied, the research design, and the target population;

(c) Prepare dissemination materials for both researcher and practitioner audiences and develop linkages with U.S. Department of Education dissemination and technical assistance providers, in particular those supported under the Individuals with Disabilities Education Act, to communicate research findings and distribute products; and

(d) Budget for two trips annually to Washington, D.C., for: (1) A two-day Research to Practice Division Project Directors' meeting; and (2) another meeting to collaborate with the Research to Practice Division project officer and the other projects funded under this priority, and to share information and discuss findings and methods of dissemination.

*Executive Order 12866*

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed

priorities, the Secretary has determined that the benefits of the proposed priorities justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed priorities without impeding the effective and efficient administration of the program.

*Summary of Potential Costs and Benefits*

There are no identified costs associated with this notice of proposed priorities. Announcement of the priorities will not result in costs to State and local governments, recipients of grant funds, or to children and youth with disabilities and their families. The benefit from these priorities will be to focus activities and Federal assistance on improving results for children and youth with disabilities.

*Intergovernmental Review*

All programs in this notice (except for the Research and Innovation Projects) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

*Invitation to Comment*

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3524, 300 C Street, SW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed priorities. An individual with a disability who wants to schedule an appointment for this type of aid may call (202)–205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m., and 8 p.m., eastern time, Monday through Friday.

*Electronic Access to This Document*

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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

**Note:** The official version of a document is the document published in the **Federal Register**.

(Catalog of Federal Domestic Assistance Numbers: Research and Innovation to Improve Services and Results for Children with Disabilities, 84.324; and Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities, 84.326)

Dated: January 29, 1998.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 98–4138 Filed 2–18–98; 8:45 am]

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Thursday
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Part III

# Department of Justice

## Office of Juvenile Justice and Delinquency Prevention Program

## Notice of the Fiscal Year 1998 Missing and Exploited Children's Program; Proposed Program Plan and Announcement of Discretionary Competitive Assistance Grant; Notice

## DEPARTMENT OF JUSTICE

### Office of Juvenile Justice and Delinquency Prevention Programs

**[OJP (OJJDP–1154]**

**RIN 1121–ZA91**

### Notice of the Fiscal Year 1998 Missing and Exploited Children's Program; Proposed Program Plan and Announcement of Discretionary Competitive Assistance Grant

**AGENCY:** Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, DOJ.

**ACTION:** Proposed Program Plan for public comment.

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing its Missing and Exploited Children's Fiscal Year (FY) 1998 Proposed Program Plan and soliciting public comment on the proposed plan and priorities. After analyzing the public comments on this Proposed Program Plan, OJJDP will issue its final FY 1998 Missing and Exploited Children's Program Plan.

**DATES:** Comments must be submitted by April 20, 1998.

**ADDRESSES:** Public comments should be mailed to Shay Bilchik, Administrator, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street NW., Room 8413, Washington, D.C. 20531.

**FOR FURTHER INFORMATION CONTACT:** Ronald C. Laney, Director, Missing and Exploited Children's Program, 202–616–3637. [This is not a toll-free number.]

**SUPPLEMENTARY INFORMATION:** The Missing and Exploited Children's Program is administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Pursuant to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, section 406(a)(2), 42, U.S.C. 5776, the Administrator of OJJDP is publishing for public comment a Proposed Program Plan for activities authorized by Title IV of the JJDP Act, the Missing Children's Assistance Act, 42 U.S.C. 5771 *et seq.*, that OJJDP proposes to initiate or continue in FY 1998. Taking into consideration comments received on this Proposed Program Plan, the Administrator will develop and publish a Final Program Plan that describes the program activities OJJDP plans to fund during FY 1998 using Title IV funds.

The actual solicitation of any competitive grant applications under the Final Program Plan will be published at a later date in the **Federal Register**. No proposals, concept papers, or other types of applications should be submitted at this time.

#### Background: The Nature of the Problem of Missing and Exploited Children

The issues involving missing and exploited children can be divided into four categories: family abduction, nonfamily abduction, child exploitation, and the impact these events have on children and families. These issues are summarized below, using data drawn from the 1988 National Incidence Study of Missing, Abducted, Runaway, or Thrownaway Children (NISMART), the most current available data. The NISMART II study, funded in 1996, will produce new data beginning in 1999.

#### Family Abduction

In 1988, NISMART estimated that 354,100 family abductions were occurring each year. Forty-six percent of these abductions (163,200) involved concealment of the child, transportation of the child out of State, or intent by the abductor to keep the child indefinitely or to permanently alter custody. Of this more serious subcategory of family abductions, a little more than half were perpetrated by men who were noncustodial fathers and father figures. Most victims were children between the ages of 2 and 11. Half of these abductions involved unauthorized takings, and half involved failure to return the child after an authorized visit or stay. Fifteen percent of these abductions involved the use of force or violence, and between 75 and 85 percent involved interstate transportation of the child. About half of family abductions occurred before the parents' relationship ended. Half did not occur until 2 or more years after a divorce or separation, usually after parents developed new households, moved away, developed new relationships, or became disenchanted with the legal system. More than half occurred in the context of relationships with a history of domestic violence. An estimated 49 percent of abductors had criminal records, and a significant number had a history of violent behavior, substance abuse, or emotional disturbance. As NISMART found, it is not uncommon for child victims of family abduction to have their names and appearances altered; to experience medical or physical neglect, unstable schooling, or homelessness; or to endure frequent moves. These children are often told lies about the abduction and the left-behind parent, event that the left-behind parent is dead.

#### Nonfamily Abduction

NISMART reported that an estimated 3,200 to 4,600 short-term nonfamily abductions were known to law enforcement in 1988. Of these, an estimated 200 to 300 were stereotypical kidnapings where a child is gone overnight, is killed, is transported a distance of 50 miles or more, or is being detained by a perpetrator who intends to keep the child permanently. Young teenagers and girls were the most common victims. Two-thirds of short-term abductions involved a sexual assault. A majority of the victims were abducted from the street. More than 85 percent of nonfamily abductions involved force, and more than 75 percent involved a weapon. Most episodes lasted less than a day. Most researchers and practitioners consider the number of short-term abductions to be an underestimate because of police reporting methods and lack of reporting on the part of victims. Federal Bureau of Investigation (FBI) data support estimates of 43 to 147 stranger abduction homicides of children annually between 1976 and 1987. Using FBI data, NISMART estimated that 114,600 nonfamily abductions were attempted in 1988, most involving strangers and usually involving an attempt to lure a child into a car. In a majority of these cases, the police were not contacted.

#### Child Exploitation

Children are also at risk of being victimized as a result of a range of circumstances that fall into three categories: running away; being expelled from the home, or ''thrownaway,'' by parents or guardians; or being otherwise lost or missing.

NISMART estimated that each year 446,700 children ran away from households and 12,800 children ran from juvenile facilities. Many children who ran from households also ran from facilities. About one-third of these runaways left home or a juvenile facility more than once. Of all runaways identified, 133,500 were without secure and familiar places to stay during their episodes. More than a third of runaways ran away more than once during the year. One in ten traveled a distance of more than 100 miles. Of the runaways from juvenile facilities, almost one-half left the State. Runaways were mostly teenagers, but almost 10 percent were 11 years old or youngers. Runaways tended to come disproportionately from households with stepparents. Family conflict seemed to be at the heart of most runaway episodes. Between 60 and 70 percent of runaways reported being

seriously abused physically. It is estimated that from 25 to 80 percent of all runaways are sexually abused. Runaways, particularly chronic runaways, are at higher risk for physical and sexual victimization, substance abuse, sexually transmitted diseases, unintended pregnancies, violence, and suicide.

NISMART reported that an estimated 127,100 thrownaway children were told directly to leave their households, had been away from home and were not allowed back by their caretakers, had caretakers, who made no effort to recover them when they ran away, or had been abandoned or deserted. By comparison, for every thrownaway child, there were four runaway children. An estimated 59,200 thrownaway children were without secure and familiar places to stay during the episodes. Most thrownaways were older teenagers, but abandoned children tended to be young (half under the age of 4). Thrownaways were concentrated in low-income families and families without both natural parents. Compared with runaways, thrownaways experienced more violence and conflict within their families and were less likely to return home.

An estimated 438,200 children were lost, injured, or otherwise missing each year, according to the 1988 study. Of these, 139,100 cases were serious enough for the police to be called. Almost half involved children under 4. Most of these episodes lasted less than a day. A fifth of the children experienced physical harm. Fourteen percent of the children were abused or assaulted during the episodes.

**Impact on Children and Families**

The majority of families of missing children experience serious psychological consequences and substantial emotional distress. The level of emotional distress equals or exceeds the emotional distress for other groups of individuals exposed to trauma, such as combat veterans and victims of rape, assault, or other violent crime, with families where the missing child is subsequently recovered deceased exhibiting the highest level of emotional distress. Once home, a third of abducted children live in constant fear of reabduction. Many child victims of family abduction experience serious psychological consequences and substantial emotional distress. Trauma symptoms may be evident for up to 4 or 5 years after recovery. More than 80 percent of recoveries of missing children are concluded in less than 15 minutes with no psychological or social service support. In most cases, the only nonfamily person present is a police officer. Almost four-fifths of victims and families of missing children do not receive mental health or counseling services.

**Introduction to the Fiscal Year 1998 Program Plan**

According to the most recent FBI National Crime Information Center (NCIC) Missing Person file statistics, approximately 2,200 children are reported missing to law enforcement every day in the United States. Many of these children are runaways; others are taken by noncustodial parents and used as pawns in custody battles between their parents. Some wander away and are unable to find their way home, and still others represent a parent's worst nightmare, the loss of a child to a predator.

In 1984, Congress recognized the need for a national response to missing children and enacted the Missing Children's Assistance Act to establish a Missing and Exploited Children Program within OJJDP. The Missing Children's Assistance Act authorizes assistance for research, demonstration, and service programs and for establishment and support of a national resource center and clearinghouse dedicated to missing and exploited children.

In FY 1997, OJJDP's Missing and Exploited Children's Program continued to coordinate the Federal Government's response to missing and exploited children and provided funding support for research, training, technical assistance, and demonstration projects. Some notable FY 1997 accomplishments are described below.

OJJDP and the National Center for Missing and Exploited Children (NCMEC) published A Report to the Nation: Missing and Exploited Children, which offers State action plans and advisory memorandums suggesting methods to enhance State and local responses to missing and exploited children cases. The report has been disseminated to all State Governors and attorneys general and is available through OJJDP's Juvenile Justice Clearinghouse (JJC) and NCMEC. The JJC telephone number is 800–638–8736, and the NCMEC number is 800–843–5678.

OJJDP and the Washington State Attorney General's Office released the results of a 3-year, OJJDP-funded research project that analyzed the solvability factors of missing children homicide investigations. The study provided information regarding victim, offender, and serial offender composites; the importance of linking all of the evidentiary sites within a homicide event; and the relationships between the various sites. Copies of the report can be obtained by calling the Washington State Attorney General's Office Homicide Investigation Tracking Office at 800–345–2793.

OJJDP, working with NCMEC and the FBI's Child Abduction and Serial Killer Unit (CASKU) and Criminal Justice Information Services Division, developed and implemented the Jimmy Ryce Law Enforcement Training Center (JRLETC), which offers multitiered training for law enforcement executives and investigators. The training center, dedicated to the memory of 9-year-old Jimmy Ryce, who was abducted and murdered in Florida, opened April 15, 1997. OJJDP Administrator Shay Bilchik presided over the dedication ceremony, which included remarks from Assistant Attorney General Laurie Robinson, FBI Director Louis Freeh, Senator Mitch McConnell of Kentucky, and Jimmy's parents, Donald and Claudine Ryce. Composed of several complementary elements, JRLETC offers 2-day seminars focusing on broad coordination and policy development issues for law enforcement executives and regional 5-day courses emphasizing investigative techniques for law enforcement officers who are responsible for investigating missing children cases.

In FY 1997, Fox Valley Technical College, an OJJDP cooperative agreement recipient, provided training to more than 4,100 law enforcement and other professionals working on missing and exploited children cases. These courses integrate current research and include modules pertaining to investigative techniques, interview strategies, comprehensive response planning, media relations, lead and case management, and other topics related to missing and exploited children cases.

To help investigators determine if a child is abused or exploited and collect the evidence necessary for effective prosecution, OJJDP released seven additional Portable Guides in FY 1997 (the first four in the series were issued in FY 1996) for police officers, medical professionals, and social service professionals investigating child abuse and exploitation cases. The Guides, sized to fit in patrol car glove compartments or detectives' briefcases, provide immediate reference materials for ''on the scene'' investigations. Subjects covered include methods of interviewing victims, evidence collection techniques, investigative strategies, and recognition of injuries caused by abuse. Two additional guides are currently under development: Multidisciplinary Team Approach to

Investigating Child Abuse and Computers and the Sexual Exploitation of Children.

**Fiscal Year 1998 Programs**

In FY 1998, OJJDP proposes to continue its concentration on programs that are national in scope, promote awareness, and enhance the Nation's response to missing and exploited children and their families.

**New Programs**

Title IV new programs to be funded in FY 1998 are summarized below. The grant to the National Center for Missing and Exploited Children to implement the Title IV national resource and clearinghouse function is considered a new program because the existing project period grant expires in FY 1998 and a new award will be made to support these functions during FY 1998. The Training and Technical Assistance program will be recompleted in FY 1998, and a new project period grant will be awarded. The Internet Crimes Against Children Regional Task Force Development program is a new program to be competitively funded in FY 1998. While funds for other new programs in FY 1998 are limited, OJJDP is interested in obtaining input from the field on program and service needs that will assist us in planning both FY 1998 and future programming.

*National Resource Center and Clearinghouse*

Congress has provided $5 million to continue and expand the programs, services, and activities of the National Center for Missing and Exploited Children, a national resource center and clearinghouse dedicated to missing and exploited children and their families. As provided in Title IV, the functions of the Center include, but are not limited to, the following:

- Provide a toll-free hotline where citizens can report investigative leads and parents and other interested individuals can receive information concerning missing children.
- Provide technical assistance to parents, law enforcement, and other agencies working on missing and exploited children issues.
- Promote information sharing and provide technical assistance by networking with regional nonprofit organizations, State missing children clearinghouses, and law enforcement agencies.
- Develop publications that contain practical, timely information.
- Provide information regarding programs offering free or low-cost transportation services that assist in reuniting children with their families.

In FY 1997, NCMEC's toll-free hotline received 127,796 calls ranging from citizens reporting information concerning missing children to requests from parents and law enforcement for information and publications. NCMEC also assisted in the recovery of 4,607 children, disseminated millions of missing children photographs, distributed thousands of publications, and sponsored four regional meetings of State missing children clearinghouses.

In a major effort to broaden its photograph distribution capacity, NCMEC is displaying missing children posters on hundreds of Web sites by using push technology to automatically broadcast photographs and case information to requesting Web sites. In addition, NCMEC worked with private industry representatives to create a wide array of awareness and prevention activities that include public service announcements, direct mail campaigns, and distribution of mousepads that list safe Internet practices for children.

In FY 1998, in addition to performing the ongoing functions of the national resource center and clearinghouse, NCMEC will complete the development of a Web site that will enable State missing children clearinghouses and law enforcement agencies to post missing children posters on the Internet. In response to research documenting that adolescent females are at greater risk than adolescent males of sexual victimization, NCMEC will revise its Internet safety publication, Child Safety on the Information Highway, and will implement a new safety awareness program focusing on teens.

Congress has appropriated $1.9 million in FY 1998 for NCMEC to develop a national training and technical assistance program designed to enhance the national investigative response to Internet crimes against children. NCMEC, in partnership with OJJDP and in cooperation with the U.S. Customs Service; the U.S. Postal Inspection Service; the U.S. Department of Justice's Criminal Division's Child Exploitation and Obscenity Section and the Federal Bureau of Investigation; and the National District Attorneys Association, will initiate a broad program of activities in FY 1998 to combat crimes against children by criminals using computer technology or the Internet. As envisioned, these activities will include the installation of a NCMEC CYBER Tipline to collect information regarding child pornography and other computer crimes against children. Once the Tipline is implemented, citizens will be able to use the Internet to provide information about criminal Internet activity targeting children.

Additional project activities include an Internet crimes against children teleconference for law enforcement and a national law enforcement training program that will include regional investigative seminars in the field and policy development seminars at JRLETC. NCMEC and OJJDP will be using a national technical advisory group composed of representatives from Federal, State, and local law enforcement, prosecutors, and private industry (including the agencies referenced above) to guide implementation of this initiative.

A 1-year cooperative agreement will be awarded to NCMEC in FY 1998 for the performance of the national resource center and clearinghouse functions. No additional applications will be solicited in FY 1998.

*Missing and Exploited Children Training and Technical Assistance*

OJJDP proposes to issue a solicitation for an assistance award to provide Title IV national training and technical assistance on missing and exploited children to law enforcement, prosecutors, and health and family services professionals. The purpose of this program is to ensure the provision of up-to-date, practical training and technical assistance for professionals working on missing and exploited children issues.

The program was competitively funded in FY 1995 for a 3-year project period under a cooperative agreement awarded to Fox Valley Technical College (FVTC) of Appleton, Wisconsin. In FY 1997, FVTC provided training to more than 4,100 law enforcement, prosecution, child welfare services, and medical professionals. FVTC supported missing and exploited children activities by providing direct technical assistance pertaining to information sharing, protocol development, response planning, child protection legislation, juvenile prostitution, and multidisciplinary team development to more than 40 State and local units of government and professional associations. FVTC also facilitated the development of several OJJDP publications including, When Your Child is Missing: A Family Survival Guide. Written by parents for parents, this publication, scheduled for release in spring 1998, will provide guidance for searching parents from the perspective of parents who have lost children to abductions. FVTC also provided substantial assistance in the creation of several titles in OJJDP's

Portable Guides series and the publication of the Federal Agency Task Force Joint Report.

One cooperative agreement with a 3-year project period would be awarded in FY 1998 under a competitive program announcement.

*Internet Crimes Against Children Regional Task Force Development*

Congress has appropriated $2.4 million in FY 1998 to develop and support regional law enforcement task forces to address the problem of Internet crimes against children. OJJDP will issue a solicitation for assistance awards to States or local units of government, or combinations thereof, to support implementation of regional task forces to investigate Internet crimes against children. The purpose of the program design will be to assist communities to develop comprehensive multiagency responses that emphasize collaboration, information sharing, and victim assistance. Eight to twelve grants will be awarded to develop or expand regional multidisciplinary task forces under this solicitation.

**Continuation Programs**

Title IV continuation programs for FY 1998 are summarized below. Available funds, implementation sites, and other descriptive information are subject to change based on the plan review process, grantee performance, application quality, fund availability, and other factors. No additional applications will be solicited for these programs in FY 1998.

*Alzheimer's Disease and Related Disorders Association's Safe Return Program*

OJJDP is responsible for providing oversight of this program, for which Congress has provided $900,000 in FY 1998 to facilitate the identification and safe return of memory-impaired persons who are at risk of wandering from their homes.

In FY 1997, the Safe Return Program increased its registration data base to 30,000 individuals, assisted in the return of more than 1,700 wanderers, and continued the development of an image data base consisting of more than 25,500 photographs.

In FY 1998, the program will continue to expand the national registry of memory-impaired persons, maintain the toll-free telephone service, provide a Fax Alert System, conduct a ''train the trainers'' program for law enforcement and emergency personnel, develop information and educational materials, launch a national public awareness campaign, and transition current ''wandering persons'' programs into the national Safe Return Program.

*National Crime Information Center (NCIC)*

OJJDP proposes to continue to transfer funds to the Department of Justice's Management Division through a reimbursable agreement to continue NCMEC's online access to the FBI's National Crime Information Center (NCIC) Wanted and Missing Persons files. The ability to verify NCIC entries, communicate with law enforcement through the Interstate Law Enforcement Telecommunication System, and be notified of life-threatening cases through the NCIC flagging system is crucial to NCMEC's mission of providing advice and technical assistance to law enforcement.

*NISMART II*

Temple University Institute for Survey Research was awarded a 3-year project period grant in FY 1995 to conduct the second National Incidence Study of Missing, Exploited, Abducted, Runaway, and Thrownaway Children (NISMART II). This project builds on the strengths and addresses some of the weaknesses of NISMART I. Temple has assembled a team of experts in the field of child victimization and survey research capabilities, particularly surveys involving children and families concerning sensitive topics. Temple has contracted with the University of New Hampshire Survey Research Laboratory and Westat, Inc., to carry out specific components of the study and provide extensive background knowledge about the particulars of NISMART I. Specifically, the NISMART II study will (1) revise NISMART I definitions, (2) conduct a household survey that interviews both caretaker and child, (3) conduct a police records study, (4) conduct a juvenile facilities study, (5) analyze National Incidence Study-3 Community Professionals Study, (6) develop a single estimate of missing children, and (7) conduct analyses and prepare reports. The project is scheduled for completion in FY 2000.

In FY 1997, the NISMART II definitions were revised under the guidance of the project Advisory Board, and data survey collection instruments were developed and submitted to the Office of Management and Budget for clearance.

In FY 1998, project activities will include completing the Computer Assisted Telephone Interview program, pretesting the survey questionnaires and refining them as necessary, and collecting data. In addition, a Fact Sheet documenting the scope of the research, definition revisions, and methodology changes will be published.

*Effective Community-Based Approaches for Dealing With Missing and Exploited Children*

In FY 1995, the American Bar Association (ABA) was awarded an 18-month grant to study effective community-based approaches for dealing with missing and exploited children. The objectives of Phase I of this study were to (1) conduct a national search for communities that have implemented a multiagency response to missing and exploited children and their families, (2) select five communities with working multiagency responses that hold promise for replication, (3) evaluate these five communities, and (4) prepare a final report. Phase I was completed in July 1997. In Phase II, which started in August 1997, the ABA is preparing a final report that synthesizes the research findings from Phase I into a modular training curriculum to help communities plan, implement, and evaluate a multiagency response to missing and exploited children and their families. The project will be completed in FY 1998 with no further funding anticipated at this time.

*Parent Resource Support Network*

In FY 1997, OJJDP entered into a competitively awarded 3-year cooperative agreement with Public Administration Services (PAS) to develop and maintain a parent support network. The need for victim parents to speak with other victim parents has emerged as a constant theme in several OJJDP focus groups. The goal of this project is to stimulate development of a network of screened and trained parent volunteers who will provide assistance and advice to other victim parents.

In FY 1998, PAS will install a case management system to document referrals and assistance activity, recruit parent mentors, develop and deliver a training curriculum for the volunteer parents, and begin direct service delivery to requesting parents. No funds will be required in FY 1998.

*Jimmy Ryce Law Enforcement Training Center Program*

In FY 1997, OJJDP—in partnership with the National Center for Missing and Exploited Children, the FBI, and OJJDP grantee Fox Valley Technical College—developed and implemented the Jimmy Ryce Law Enforcement Training Center (JRLETC) program. JRLETC offers two law enforcement training tracks that are designed to

improve the national investigative response to missing children cases.

JRLETC's Chief Executive Officer (CEO) seminars approach missing children cases from a management perspective and offer information regarding coordination and communication issues, resource assessment, legal concerns, and policy development for police chiefs and sheriffs. The Responding to Missing and Exploited Children (REMAC) course offers modules focusing on investigative techniques for all aspects of missing children cases.

In FY 1997, 197 police chiefs and sheriffs and 634 investigators representing law enforcement agencies from every State participated in at least one of the JRLETC programs. In addition, representatives from every National Crime Information Center (NCIC) State Control Terminal Agencies received training at JRLETC about the NCIC flagging system and related missing children issues.

Congress appropriated $1,185,000 in FY 1998 to continue operation of the Jimmy Ryce Law Enforcement Training Center. OJJDP, NCMEC, the FBI, and FVTC will continue to provide training and technical assistance through the JRLETC and will augment the training with a new onsite technical assistance program to respond to the numerous requests for assistance from JRLETC graduates. It is envisioned that teams composed of FBI, NCMEC, and law enforcement management experts will merge FBI Child Abduction and Serial Killer Unit (CASKU) investigative expertise with proven law enforcement management practices to assist police chiefs and sheriffs in designing unique missing children investigative and response protocols for their communities.

Under the JRLETC appropriation, OJJDP plans to award $500,000 to FVTC to support regional REMAC courses, with the remaining $685,000 to be awarded to NCMEC to continue the CEO seminars.

Fiscal year 1998 funds will be awarded to supplement cooperative agreements to NCMEC and FVTC to continue operation of the Jimmy Ryce Law Enforcement Training Center. No additional applications will be solicited in FY 1998.

*Criminal Parental Kidnaping Training and Technical Assistance*

In FY 1997, OJJDP supplemented an FY 1994 competitive award by awarding continuation funding to the American Prosecutors Research Institute (APRI) to provide parental abduction training and technical assistance for prosecutors and to develop a training course pertaining to the prosecution of child exploitation cases. Child exploitation prosecutions are among the most complicated that prosecutors confront because of the age and immaturity of victims, societal and law enforcement attitudes toward these victims, the need for specialized understanding of the dynamics of sexual exploitation, and the jurisdiction and communication difficulties resulting from the involvement of numerous agencies. To effectively handle such cases, prosecutors must approach victims with great sensitivity and an understanding of the psychological dynamics involved.

In FY 1997, APRI—in addition to delivering training to 60 prosecutors—disseminated a quarterly newsletter, maintained an up-to-date parental kidnaping and child exploitation data base that included a compilation of statutes and case law summaries, and provided technical assistance to more than 100 prosecutors and investigators on an as-needed basis. APRI also produced a Judge's Guide benchbook, continued to update the National Directory of Parental Kidnaping Prosecutors and Investigators, created a Web site that provides access to case law information and law review articles, and provided assistance to numerous professional conferences.

In FY 1998, while continuing, updating, or expanding the above-mentioned technical assistance activities, APRI will offer an advanced dual track training course for prosecutors in the areas of child exploitation and parental kidnaping. The parental abduction track will concentrate on difficult case strategies, resource availability, preventive measures, and recovery techniques. The child exploitation track will discuss legal issues pertaining to computer search and seizures, juvenile prostitution, child pornography, and the emerging threat posed by criminals using Internet technology to victimize children. No additional funds are necessary in FY 1998.

*National Center on Child Fatality Review*

In FY 1997, OJJDP awarded a noncompetitive award to the National Center on Child Fatality Review (NCCFR) in Los Angeles, California, to develop State and local uniform reporting definitions and generic child fatality review team protocols for consideration by communities working on enhancing their child death investigations.

NCCFR developed a model for integrating data among the Criminal Justice, Vital Statistics, and Social Services Child Abuse Indices. NCCFR also selected a National Advisory Board, which is composed of representatives from across the country and from relevant disciplines.

In FY 1998, OJJDP proposes to continue support to NCCFR to (1) disseminate the model protocols for integrating the data mentioned above to State and local child fatality review teams and other relevant agencies; (2) develop a Web site and update it with journal articles, references, new studies, new findings, and new resources; (3) maintain paper and electronic directories of State and local child fatality review teams, national associations, and Federal agency contacts; (4) maintain a listing of contacts for professional specialists such as head trauma, burns, neglect, NCCFR Advisory Board, and related organizations and systems in the respective fields; (5) provide information and training materials on basic team management and special problems such as confidentiality, risk assessment, and special case circumstances; (6) coordinate teleconferences and Internet meetings of the Advisory Board; (7) maintain and share published reports of State and local teams; (8) develop, coordinate, and implement multidisciplinary training; and (9) plan for a national conference.

*Investigative Case Management for Missing Children Homicides*

In FY 1993, OJJDP made a competitive award to the Washington State Attorney General's Office (WAGO) to analyze the solvability factors of missing children homicide investigations. During the course of that research, WAGO collected and analyzed the specific characteristics of more than 550 missing child homicide cases. These characteristics were recorded in WAGO's child homicide data base.

In FY 1998, OJJDP proposes to continue to provide funding support to WAGO to ensure the vitality and investigative relevance of its child homicide data base. This funding would support both the gathering of new case information and the development of specific case studies that will be used to illustrate the research findings in training presentations. In addition, the data base would be used by Federal, State, and local law enforcement to perform link analysis by identifying cases with similar characteristics. Law enforcement data base inquiries can be made by calling WAGO at 800–345–2793.

*FBI Child Abduction and Serial Killer Unit (CASKU)*

In FY 1997, OJJDP entered into a 3-year interagency agreement with the FBI's CASKU to expand research to broaden law enforcement's understanding of homicidal pedophiles' selection and luring of their victims, their planning activities, and their efforts to escape prosecution. This information will be used by the FBI and OJJDP in training and technical assistance programs. Fiscal year 1997 activities included the drafting of the research manager position description and preliminary survey development.

In FY 1998, OJJDP will continue funding support to CASKU to (1) complete the research manager employment process to include background screening; (2) complete development of the survey protocol; (3) identify specific individuals to include in the case studies; and (4) begin data collection.

Dated: February 12, 1998.

**Shay Bilchik,**

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

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# Part IV

# Executive Office of the President

## Office of Management and Budget

**OMB Circular A–119; Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities; Notice**

## EXECUTIVE OFFICE OF THE PRESIDENT

### Office of Management and Budget

### OMB Circular A–119; Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

**AGENCY:** Office of Management and Budget, EOP.

**ACTION:** Final Revision of Circular A–119.

**SUMMARY:** The Office of Management and Budget (OMB) has revised Circular A–119 on federal use and development of voluntary standards. OMB has revised this Circular in order to make the terminology of the Circular consistent with the National Technology Transfer and Advancement Act of 1995, to issue guidance to the agencies on making their reports to OMB, to direct the Secretary of Commerce to issue policy guidance for conformity assessment, and to make changes for clarity.

**DATES:** Effective February 19, 1998.

**ADDRESSES:** Direct any comments or inquiries to the Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB Room 10236, Washington, D.C. 20503. Available at http://www.whitehouse.gov/WH/EOP/omb or at (202) 395–7332.

**FOR FURTHER INFORMATION CONTACT:** Virginia Huth (202) 395–3785.

**SUPPLEMENTARY INFORMATION:**

I. Existing OMB Circular A–119
II. Authority
III. Notice and Request for Comments on Proposed Revision of OMB Circular 119–A
IV. Discussion of Significant Comments and Changes

## I. Existing OMB Circular A–119

Standards developed by voluntary consensus standards bodies are often appropriate for use in achieving federal policy objectives and in conducting federal activities, including procurement and regulation. The policies of OMB Circular A–119 are intended to: (1) Encourage federal agencies to benefit from the expertise of the private sector; (2) promote federal agency participation in such bodies to ensure creation of standards that are useable by federal agencies; and (3) reduce reliance on government-unique standards where an existing voluntary standard would suffice.

OMB Circular A–119 was last revised on October 20, 1993. This revision stated that the policy of the federal government, in its procurement and regulatory activities, is to: (1) '[r]ely on voluntary standards, both domestic and international, whenever feasible and consistent with law and regulation;'' (2) ''[p]articipate in voluntary standards bodies when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget resources;'' and (3) ''[c]oordinate agency participation in voluntary standards bodies so that * * * the most effective use is made of agency resources * * * and [that] the views expressed by such representatives are in the public interest and * * * do not conflict with the interests and established views of the agencies.'' [See section 6 entitled ''Policy'].

## II. Authority

Authority for this Circular is based on 31 U.S.C. 1111, which gives OMB broad authority to establish policies for the improved management of the Executive Branch.

In February 1996, Section 12(d) of Public Law 104–113, the ''National Technology Transfer and Advancement Act of 1995,'' (or ''the Act'') was passed by the Congress in order to establish the policies of the existing OMB Circular A–119 in law. [See 142 Cong. Rec. H1264–1267 (daily ed. February 27, 1996) (statement of Rep. Morella); 142 Cong. Rec. S1078–1082 (daily ed. February 7, 1996) (statement of Sen. Rockefeller); 141 Cong. Rec. H14333–34 (daily ed. December 12, 1995) (statements of Reps. Brown and Morella)]. The purposes of Section 12(d) of the Act are: (1) To direct ''federal agencies to focus upon increasing their use of [voluntary consensus] standards whenever possible,'' thus, reducing federal procurement and operating costs; and (2) to authorize the National Institute of Standards and Technology (NIST) as the ''federal coordinator for government entities responsible for the development of technical standards and conformity assessment activities,'' thus eliminating ''unnecessary duplication of conformity assessment activities.'' [See Cong. Rec. H1262 (daily ed. February 27, 1996) (statements of Rep. Morella)].

The Act gives the agencies discretion to use other standards in lieu of voluntary consensus standards where use of the latter would be ''inconsistent with applicable law or otherwise impractical.'' However, in such cases, the head of an agency or department must send to OMB, through NIST, ''an explanation of the reasons for using such standards.'' The Act states that beginning with fiscal year 1997, OMB will transmit to Congress and its committees an annual report summarizing all explanations received in the preceding year.

## III. Notice and Request for Comments on Proposed Revision of OMB Circular A–119

On December 27, 1996, OMB published a ''Notice and Request for Comments on Proposed Revision of OMB Circular A–119'' (61 FR 68312). The purpose of the proposed revision was to provide policy guidance to the agencies, to provide instructions on the new reporting requirements, to conform the Circular's terminology to the Act, and to improve the Circular's clarity and effectiveness.

On February 10, 1997, OMB conducted a public meeting to receive comments and answer questions.

In response to the proposed revision, OMB received comments from over 50 sources, including voluntary consensus standards bodies or standards development organizations (SDOs), industry organizations, private companies, federal agencies, and individuals.

## IV. Discussion of Significant Comments and Changes

Although some commentators were critical of specific aspects of the proposed revision, the majority of commentators expressed support for the overall policies of the Circular and the approaches taken. The more substantive comments are summarized below, along with OMB's response.

The Circular has also been converted into ''Plain English'' format. Specifically, the following changes were made. We placed definitions where the term is first used; replaced the term ''must'' with ''shall'' where the intent was to establish a requirement; created a question and answer format using ''you'' and ''I'; and added a Table of Contents.

We replaced proposed sections 6, 7 and 10 (''Policy,'' ''Guidance,'' and ''Conformity Assessment'') with sections 6, 7, and 8, which reorganized the material. We reorganized the definitions for ''standard,'' ''technical standard,'' and ''voluntary consensus standard.'' We reorganized proposed section 8 on ''Procedures'' into sections 9, 10, 11, 12. For clarity, we have referenced provisions by their location both in the proposed Circular and in the final Circular.

*Proposed Section 1—Purpose. Final Section 1*

1. Several commentators suggested that this section should be modified to make clear that the primary purpose of

the revision of the Circular is to interpret the provisions of section 12(d) of Pub. L. 104–113 so that federal agencies can properly implement the statutory requirements. We revised the wording of this section to reflect this suggestion.

*Proposed Section 2—Rescissions. Final Section 1*

2. We moved this section to Final Section 1.

*Proposed Section 3—Background. Final Section 2*

3. Several commentators suggested substituting ''use'' for ''adoption'' in this section to conform to the new set of definitions. We agree, and we modified the final Circular.

*Proposed Section 4—Applicability. Final Section 5*

4. Several commentators found this section unclear. One commentator suggested deleting ''international standardization agreements,'' suggesting this section could be interpreted as conflicting with proposed section 7a(1) which encouraged consideration of international standards developed by voluntary consensus standards. We agree, and we modified the final Circular.

*Proposed Section 5a—Definition of Agency. Final Section 5*

5. A commentator suggested defining the term ''agency mission.'' Upon consideration, we have decided that this term is sufficiently well understood as to not require further elaboration; it refers to the particular statutes and programs implemented by the agencies, which vary from one agency to the next. Thus, we did not add a definition.

6. A commentator questioned whether federal contractors are intended to be included within the definition of ''agency.'' Federal contractors do not fall within the definition of ''agency.'' However, if a federal contractor participates in a voluntary consensus standards body on behalf of an agency (i.e., as an agency representative or liaison), then the contractor must comply with the ''participation'' policies in section 7 of this Circular (i.e., it may not dominate the proceedings of a voluntary consensus standards body.).

*Proposed Section 5b—Conformity Assessment. Final Section 8*

7. In response to the large number of commentators with concerns over the definition of conformity assessment, we have decided to not define the term in this Circular but to defer to NIST when it issues its guidance on the subject. The Circular's policy statement on conformity assessment is limited to the statutory language.

*Proposed Section 5c—Definition of Impractical. Final Section 6a(2)*

8. A commentator suggested that if an agency determines the use of a standard is impractical, the agency must develop an explanation of the reasons for impracticality and the steps necessary to overcome the use of the impractical reason. We decided that no change is necessary. The Act and the Circular already require agencies to provide an ''explanation of the reasons.'' Requiring agencies to describe the steps necessary ''to overcome the use of the impractical reason'' is unnecessarily burdensome and not required by the Act.

9. A commentator suggested that the definition of ''impractical'' is too broad and proposed deleting words such as ''infeasible'' or ''inadequate.'' We have decided that the definition is appropriate, because things that are infeasible or inadequate are commonly considered to be impractical. Thus, we made no change.

10. A commentator suggested eliminating the phrase ''unnecessarily duplicative'' because it is unlikely that a voluntary consensus standard that was considered ''impractical'' would also be ''unnecessarily duplicative.'' We agree, and the final Circular is modified accordingly.

11. A few commentators suggested adding ''ineffectual'' to the definition. A few other commentators suggested adding the phrase ''too costly or burdensome to the agency or regulated community.'' Another commentator suggested the same phrase but substituted the term ''affected'' for ''regulated.'' We have decided that concerns for regulatory cost and burden fall under the term ''inefficient'' contained in this definition. Thus, we made no change.

12. A few commentators suggested deleting the term ''demonstrably'' as it implies a greater level of proof than that required in the Act. Upon consideration, we have decided that the term ''demonstrably'' is unnecessary, as the Act already requires an explanation, and it may be reasonably inferred that an explanation can be demonstrated. Thus, we deleted the term.

*Proposed Section 5d—Definition of Performance Standard. Final Section 3c*

13. A commentator suggested deleting the ''and'' in the definition. We have decided that this suggestion would distort the meaning. Therefore, no change is made.

14. A few commentators suggested substituting the term ''prescriptive'' for ''design'' because of the multiple connotations associated with the term ''design.'' In addition, several commentators suggested related clarifying language. We agree, and we modified the final Circular.

*Proposed Section 5f—Definition of Standard. Final Section 3*

15. Several commentators suggested overall clarification of this section, while other commentators endorsed the proposed section. One commentator suggested that ''clarification is necessary to distinguish the appropriate use of different types of standards for different purposes (i.e., acquisition, procurement, regulatory).'' This commentator proposed that, ''For example, regulatory Agencies should only rely upon national voluntary consensus standards (as defined in Section 5j) for use as technical criteria in regulations but a federal agency may want to use industry-developed standards (without a full consensus process) for certain acquisition purposes if there are no comparable consensus standards.'' We do not agree with this proposal. The same general principles apply in the procurement context as in the regulatory context.

16. A commentator suggested that the definition of ''standard'' be limited to ensure that agencies are only required to consider adopting voluntary ''technical'' standards. The final Circular clarifies this by clearly equating ''standard'' with ''technical standard.''

17. One commentator recommended adding to the definition of ''standard'' an exclusion for State and local statutes, codes, and ordinances, because agency contracts often require contractors to meet State and local building codes, which contain technical standards which may not be consensus-based. For example, the Department of Energy builds facilities that must be compliant with local building codes, which may be more strict than nationally accepted codes. It is not the intent of this policy to preclude agencies from complying with State and local statutes, codes, and ordinances. No change is necessary, because the Act already states that, ''If compliance * * * is inconsistent with applicable law * * * a Federal agency may elect to use technical standards that are not developed or adopted by voluntary consensus standards bodies.''

*Proposed Section 5f—Definition of Standard. Final Section 4*

18. Several commentators had concerns with this section, believing that the final sentence in the proposed

version might imply that other-than-consensus standards may qualify as consensus processes. This is not the case. We have clarified this point through the reorganization of final sections 3 and 4 and through minor clarifying language. In addition, we note that the subject of the Circular is ''voluntary consensus standards,'' which are a subset of ''standards.'' Consistent with the 1993 version, the final Circular defines ''standard'' generally to describe all the different types of standards, whether or not they are consensus-based, or industry- or company-based. Accordingly, we have inserted the phrase ''government-unique'' in final section 4b(2) in order to provide a complete picture of the different sources of standards, while also adding a reference to ''company standards'' in final section 4b(1), previously found in the definition of ''standard.''

*Proposed Section 5g—Definition of Technical Standard. Final Section 3a*

19. Several commentators suggested combining this term with the definition of standard. We agree, and the terms have been merged.

20. Another commentator suggested adding the phrase ''and related management practices'' because this phrase appears in Section 12(d)(4) of the Act. We agree, and we modified the final Circular.

*Proposed Section 5h—Definition of Use. Final Section 6a(1)*

21. Several commentators suggested that limiting an agency's use to the latest edition of a voluntary consensus standard was unnecessarily restrictive. We agree, and we modified the final Circular.

*Proposed Section 5i—Definition of Voluntary Consensus Standards. Final Section 4*

22. Several commentators objected to the phrase regarding making ''intellectual property available on a non-discriminatory, royalty-free or reasonable royalty basis to all interested parties.'' Several commentators also supported this language. This section does not limit the ability of copyright holders to receive reasonable and fair royalties. Accordingly, we made no change.

*Proposed Section 5j—Voluntary Consensus Standards Bodies. Final Section 4a(1)*

23. Several commentators proposed that the words ''but not necessarily unanimity'' be inserted for clarification. We agree, and we modified the final Circular.

24. A commentator suggested deleting the examples of voluntary consensus standards bodies. We agree that the examples were unnecessary and confusing, and we modified the final Circular.

25. A few commentators suggested that the Circular acknowledge the American National Standards Institute (ANSI) as the means of identifying voluntary consensus standards bodies. Since the purpose of the Circular is to provide general principles, rather than make determinations about specific organizations or guides, these determinations will be made by agencies in their implementation of the Act. Thus, we made no change.

26. A commentator suggested that the definition be modified so ''that only those organizations that permit an acceptable level of participation and approval by U.S. interests can be considered to qualify.'' We have decided that no change is necessary, because the requirements of consensus—openness, balance of interests, and due process—likewise apply to international organizations.

27. The same commentator suggested adding the phrase ''the absence of sustained opposition'' to the definition of ''consensus.'' Although we did not make this change, we added other language that improves the definition.

28. Several commentators proposed that the Circular further clarify aspects of this section, including further definitions of ''balance of interest,'' ''openness,'' and ''due process.'' We have decided that the definition provided is sufficient at this time, and no change is made.

29. Several commentators proposed that this definition should be ''clarified to state the Federal agencies considering the use of voluntary consensus standards, not the organizations themselves, are to decide whether particular organizations qualify as voluntary consensus standards bodies by meeting the operational requirements set out in the definition.'' For purposes of complying with the policies of this Circular, agencies may determine, according to criteria enumerated in final section 4, whether a standards body qualifies. However, it is the domain of the private sector to accredit voluntary consensus standards organizations, and accordingly, we have inserted clarifying language in final section 6l.

*Proposed Section 6a. Final Section 6c*

30. A commentator proposed deleting in section 6a ''procurement guidelines'' suggesting it was confusing and inappropriate to mandate use of voluntary consensus standards for ''procurement guidelines or procedures.'' We have decided to delete the reference to ''procurement guidelines.'' The Circular says nothing about ''procurement procedures.''

31. The same commentator suggested adding in section 6a ''monitoring objectives'' as part of an agency's regulatory authorities and responsibilities. We have decided that, under the Act and the Circular, agencies already have sufficient discretion regarding the use and non-use of standards relating to such authorities and responsibilities. Thus, we have made no change.

*Proposed Section 6a. Final Section 6f*

32. Some commentators expressed concern that once a standard was determined to be a voluntary consensus standard, an agency might incorporate such standard into a regulation without performing the proper regulatory analysis. To address this concern, another commentator suggested adding language referencing ''The Principles of Regulation'' enumerated in Section 1(b) of Executive Order 12866. We agree, and we modified the final Circular.

*Proposed Section 6b. Final Section 7*

33. In the proposed revision of the Circular, sections 6b and 7b(2) were strengthened by adding language that directed agency representatives to refrain from actively participating in voluntary consensus standards bodies or their committees when participating did not relate to the mission of the agency.

Several commentators were not satisfied with these changes and remain concerned that an agency member might dominate a voluntary consensus standards body as a result of the agency member chairing and/or providing funding to such body, thus making the process not truly consensus. These commentators urged additional limitations on agency participation in voluntary consensus standards bodies, including: Prohibiting federal agency representatives from chairing committees or voting (or if chairing a committee, then denying them the authority to select committee members); having only an advisory role; participating only if directly related to an agency's mission or statutory authority; and participating only if there is an opportunity for a third party challenge to the participation through a public hearing.

On the other hand, most commentators supported the proposed changes and agreed that federal participation in voluntary consensus

standards bodies should not be further limited, because federal participation benefited both the government and the private sector. These commentators noted that agencies must be involved in the standards development process to provide a true consensus and to help support the creation of standards for agency use. These purposes are consistent with the intent of the Act.

In the final Circular, we have added language to clarify the authorities in the Circular. We have also strengthened the final Circular by adding language in final section 7f that directs agency employees to avoid the practice or the appearance of undue influence relating to their agency representation in voluntary consensus standards activities. We would also like to underscore the importance of close cooperation with the private sector, including standards accreditors, in ensuring that federal participation is fair and appropriate.

With respect to imposing specific limitations on agency participation in such bodies, which would result in unequal participation relative to other members, we have decided that such limitations would (1) not further the purposes of the Act and (2) could interfere with the internal operations of voluntary consensus standards organizations.

First, the Act requires agencies to consult with voluntary consensus standards bodies and to participate with such bodies in the development of technical standards ''when such participation is in the public interest and is compatible with agency and departmental missions, authorities, and budget resources.'' The legislative history indicates that one of the purposes of the Act is to promote federal participation. [See 141 Cong. Rec. H14334 (daily ed. December 12, 1995) (Statement of Rep. Morella.)] Moreover, neither the Act nor its legislative history indicate that federal agency representatives are to have less than full and equal representation in such bodies. Given the explicit requirement to consult and participate and no concomitant statement as to any limitation on this participation, we believe the Act was intended to promote full and equal participation in voluntary consensus standards bodies by federal agencies.

Second, although an agency is ultimately responsible for ensuring that its members are not participating in voluntary consensus standards bodies in a manner inconsistent with the Circular and the Act, it would be inappropriate for the federal government to direct the internal operations of private sector voluntary consensus standards bodies or standards development organizations (SDOs) by proscribing the activities of any of its members. The membership of an SDO is free to choose a chair, to establish voting procedures, and to accept funding as deemed appropriate. We expect that the SDO itself or a related parent or accrediting organization would act to ensure that the organization's proceedings remain fair and balanced. An SDO has a vested interest in ensuring that its consensus procedures and policies are followed in order to maintain its credibility.

*Proposed Section 6b. Final Sections 7e, 7f, and 7h*

34. Other commentators were concerned that an agency representative could participate in the proceedings of a voluntary consensus standards body for which the agency has no mission-related or statutorily-based rationale to become involved. For example, a situation might exist in which a technical standard developed by the private sector could be so widely adopted as to result in the emergence of a de facto regulatory standard, albeit one endorsed by the private sector rather than by the government. For example, a construction standard for buildings could become so widely accepted in the private sector that the result is that the construction community acts as if it is regulated by such standards. The commentator suggested that if an agency were to participate in the development of such a technical standard, in an area for which it has no specific statutory authority to regulate, that agency could be perceived as attempting to regulate the private sector ''through the back door.'' A perception of such activity, whether or not based in fact, would be detrimental to the interests of the federal government, and agencies should avoid such involvement.

In response to this concern, we feel that changes initiated in the proposed revision and continued in the final Circular sufficiently strengthened the Circular in this regard. In particular, section 7 expressly limits agency support (e.g., funding, participation, etc.) to ''that which clearly furthers agency and departmental missions, authorities, priorities, and budget resources.'' Moreover, this language is consistent with the Act. Thus, if an agency has no mission-related or statutory-related purpose in participation, then its participation would be contrary to the Circular.

An agency is ultimately responsible for ensuring that its employees are not participating in such bodies in a manner inconsistent with the Act or this Circular. Agencies should monitor their participation in voluntary consensus standards bodies to prevent situations in which the agency could dominate proceedings or have the appearance of impropriety.

Agencies should also work closely with private sector oversight organizations to ensure that no abuses occur. Comments provided by ANSI described the extensive oversight mechanisms it maintains in order to ensure that such abuses do not occur. We encourage this kind of active oversight on the part of the private sector, and we hope to promote cooperation between the agencies and the private sector to ensure that federal participation remains fair and equal.

*Proposed Section 7—Policy Guidelines. Final Section 6c*

35. A few commentators inquired whether the Circular applies to ''regulatory standards.'' In response, the final Circular distinguishes between a ''technical standard,'' which may be referenced in a regulation, and a ''regulatory standard,'' which establishes overall regulatory goals or outcomes. The Act and the Circular apply to the former, but not to the latter. As described in the legislative history, technical standards pertain to ''products and processes, such as the size, strength, or technical performance of a product, process or material'' and as such may be incorporated into a regulation. [See 142 Cong. Rec. S1080 (daily ed. February 7, 1996) (Statement of Sen. Rockefeller.)] Neither the Act nor the Circular require any agency to use private sector standards which would set regulatory standards or requirements.

*Proposed Section 7. Final Section 6g*

36. A commentator inquired whether the use of non-voluntary consensus standards meant use of any standards developed outside the voluntary consensus process, or just use of government-unique standards. The intent of the Circular over the years has been to discourage the government's reliance on government-unique standards and to encourage agencies to instead rely on voluntary consensus standards. It is has not been the intent of the Circular to create the basis for discrimination among standards developed in the private sector, whether consensus-based or, alternatively, industry-based or company-based. Accordingly, we added language to clarify this point.

*Proposed Section 7. Final Section 6f*

37. One commentator inquired how OMB planned to carry out the ''full

account'' of the impact of this policy on the economy, applicable federal laws, policies, and national objectives. This language is from the current Circular and refers to the considerations agencies should make when considering using a standard. No change is necessary.

*Proposed Section 7. Final Section 17*

38. Several commentators noted that the proposed revision eliminated language from the current Circular which stated that its provisions ''are intended for internal management purposes only and are not intended to (1) create delay in the administrative process, (2) provide new grounds for judicial review, or (3) create legal rights enforceable against agencies or their officers.'' We have decided that, while some sections of the Circular incorporate statutory requirements, other sections remain internal Executive Branch management policy. Accordingly, we have retained the language, with minor revisions.

*Proposed Section 7a*

39. One commentator inquired as to whether the use of a voluntary consensus standard by one agency would mandate that another agency must use such standard. Implementation of the policies of the Circular are on an agency by agency basis, and in fact, on a case by case basis. Agencies may have different needs and requirements, and the use of a voluntary consensus standard by one agency does not require that another agency must use the same standard. Each agency has the authority to decide whether, for a program, use of a voluntary consensus standard would be contrary to law or otherwise impractical.

40. Another comment suggested that the Circular did not contain sufficient assurance that the standards chosen would be true consensus standards. We have expanded the guidance in the Circular to address this concern by first expanding the definition of ''consensus'' in final section 4a(1)(v). Second, we have described in final section 6l how agencies may identify voluntary consensus standards. Third, we have developed reporting procedures that allow for public comment.

*Proposed Section 7a(1). Final Section 6h*

41. Several commentators suggested that ''international voluntary consensus standards body'' be defined in proposed section 5. We have decided that this definition is not necessary, as the term ''international'' is sufficiently well understood in the standards community, and the term ''voluntary consensus standards body'' has already been defined. Moreover, the distinction between ''international standards'' and ''domestic standards'' is not relevant to the essential policies of the Circular, and this point is clarified in this section.

42. Several commentators also noted that two trade agreements (''TBT'' and the ''Procurement Code'') of the World Trade Organization were mentioned but inquired as to why other international agreements like the World Trade Organization Agreement on Sanitary and Phytosanitary Measures or the North American Free Trade Agreement were not mentioned. We did not intend this list to be exhaustive. Therefore, we deleted this phrase to emphasize the main point of this section.

43. Several commentators questioned why the Circular included language that standards developed by international voluntary consensus standards bodies ''should be considered in procurement and regulatory applications.'' We recognize that both domestic and international voluntary consensus standards may exist, sometimes in harmony, sometimes in competition. This language, which is unchanged from the current version of the Circular, states only that such international standards should be ''considered,'' not that they are mandated or that they should be given any preference. In addition, some confusion has emerged based on a perceived conflict between the commitments of the United States with respect to international treaties and this Circular. No part of this Circular is intended to preempt international treaties. Nor is this Circular intended to create the basis for discrimination between an international and a domestic voluntary consensus standard. However, wherever possible, agencies should consider the use of international voluntary consensus standards.

*Proposed Section 7a(2). Final Section 6i*

44. One commentator suggested that the Circular promote the concept of performance-based requirements when regulating the conduct of work for safety or health reasons (e.g., safety standards). Where performance standards can be used in lieu of other types of standards (or technical standards), the Circular already accomplishes this by stating in final section 6i that ''preference should be given to standards based on performance criteria.''

*Proposed Section 7a(3). Final Section 6j*

45. One commentator suggested using stronger language to protect the rights of copyright holders when referenced in a regulation. Others thought the language too strong. We have decided that the language is just right.

*Proposed Section 7a(4). Final Section 6k, 7j*

46. One commentator suggested that legal obligations that supersede the Circular and cost and time burdens need to be emphasized as factors supporting agencies' developing and using their own government-unique standards. Another commentator suggested that untimeliness or unavailability of voluntary consensus standards development should be a reasonable justification for creation of a government standard. On the first point, these specific changes are not necessary, because the Act and the Circular already state that agencies may choose their own standard ''where inconsistent with applicable law or otherwise impractical.'' On the second point, we did clarify the language in final sections 6k and 7j.

47. Another commentator suggested that the Circular should define in this section factors that are considered to be ''impractical.'' See comments on proposed section 5c. We made no change.

*Proposed Section 7a(5). Final Section 6l.*

48. This section is intended to give agencies guidance on where they may go to identify voluntary consensus standards. One commentator proposed language to indicate that, in addition to NIST, voluntary consensus standards may also be identified through other federal agencies. Another commentator proposed language that such standards may also be identified through standards publishing companies. We agree, and the Circular is changed.

*Proposed Section 7b*

49. Other commentators proposed that **Federal Register** notices be published whenever a federal employee is to participate in a voluntary consensus standards body. We have decided that this would be overly burdensome for the agencies and would provide comparatively little benefit for the public. Moreover, each agency is already required in section 15b(5) to publish a directory of federal participants in standards organizations. We made no change.

*Proposed Section 7b(2). Final Section 7d*

50. Some commentators noted that the current Circular's language, which states that agency employees who ''at government expense'' participate in voluntary consensus standards bodies shall do so as specifically authorized agency representatives, has been deleted

from the proposed revision. These commentators opposed this deletion. This phrase has been reinstated. Federal employees who are representing their agency must do so at federal expense. (On the other hand, employees are free to maintain personal memberships in outside organizations, unless the employee's agency has a requirement for prior approval.) We expect that, as a general rule, federal participation in committees will not be a problem, while participation at higher levels, such as officers or as directors on boards, will require additional scrutiny. Employees should consult with their agency ethics officer to identify what restrictions may apply.

*Proposed Section 7b(2). Final Section 7*

51. Several commentators suggested changing the language in this section from ''permitting agency participation when relating to agency mission,'' to ''permitting agency participation when compatible with agency and departmental missions, authorities, priorities, and budget resources,'' as stated in the Act. We have decided to accept this suggestion, and the Circular is changed.

*Proposed Section 7b(4). Final Sections 7d, 7g*

52. One commentator suggested that the Circular should prohibit agency employees from serving as chairs or board members of voluntary consensus standards bodies. We have not amended the Circular to prohibit agency employees from serving as chairs or board members of voluntary consensus standards bodies. However, we have modified final section 7g to clarify that agency employees, whether or not in a position of leadership in a voluntary consensus standards body, must avoid the practice or appearance of undue influence relating to the agency's representation and activities in the voluntary consensus standards bodies. In addition, we added language in final section 7d to remind agencies to involve their agency ethics officers, as appropriate, prior to authorizing support for or participation in a voluntary consensus standards body.

*Proposed Section 7b(5). Final Section 7h*

53. One commentator suggested changing the word ''should'' to ''shall'' regarding keeping the number of individual agency participants to a minimum. We decided that this change is unnecessary and made no change.

*Proposed Section 7b(6)*

54. A few commentators suggested requiring that the amount of federal support should be made public or at least made known to the supported committee of the voluntary consensus standards body or SDO. We have decided that this is unnecessary because we expect that the amount of federal support will already be known to a committee receiving the funds.

*Proposed Section 7b(7). Final Section 7g*

55. A commentator suggested either deleting ''and administrative policies'' or inserting ''internal'' before ''administrative policies'' to clarify that the prohibition is intended to apply to the internal management of a voluntary consensus standard body. This phrase is parenthetical to the words ''internal management;'' thus, the suggested revision is unnecessary.

*Proposed Section 7b(8). Final Section 7i*

56. One commentator questioned the relationship of the Circular to the Federal Advisory Committee Act (FACA). Federal participation in standards activities would not ordinarily be subject to FACA, because FACA applies to circumstances in which private individuals would be advising the government. The private sector members of standards organizations are not advising the government, but are developing standards. Nevertheless, issues may arise in which agencies should be aware of FACA.

*Proposed Section 7b. Final Sections 7e, 7f*

57. Several commentators, fearing agency dominance, criticized the proposed revision of the Circular for promoting increased agency participation. We have decided that the revisions to the Circular are balanced, in that they encourage agency participation while also discouraging agency dominance. Moreover, legislative history states, ''In fact, it is my hope that this section will help convince the Federal Government to participate more fully in these organizations' standards developing activities.'' [See 141 Cong. Rec. H14334 (daily ed. December 12, 1995) (Statement of Rep. Morella.)]

*Proposed 7c (4). Final Section 15b*

58. A commentator suggested changing ''standards developing groups'' to ''voluntary consensus standards bodies'' for consistency. We agree, and we modified the final Circular.

*Proposed 7c(6). Final Section 15b(7)*

59. The current and proposed versions of the Circular required agencies to review their existing standards every five years and to replace through applicable procedures such standards that can be replaced with voluntary consensus standards. Several commentators suggested adding language that either requires agencies to review standards referenced in regulations on an annual basis or an ongoing basis. Other commentators proposed extending the review period to ten years (in order to mirror the review cycle of the Regulatory Flexibility Act) or to eliminate the review entirely because it was burdensome.

We decided to change this requirement to one in which agencies are responsible for ''establishing a process for ongoing review of the agency's use of standards for purposes of updating such use.'' We decided that this approach will encourage agencies to review the large numbers of regulations which may reference obsolete and out-dated standards in a timely manner. Agencies are encouraged to undertake a review of their uses of obsolete or government-unique standards as soon as practicable.

60. A commentator proposed language to require agencies to respond to requests from voluntary consensus standards bodies to replace existing federal standards, specifications, or regulations with voluntary consensus standards. This change is not necessary, because the Circular already requires agencies to establish a process for reviewing standards. (See comment 59.) We made no change.

*Proposed Section 8. Final Section 11*

61. Several commentators suggested eliminating the requirement in the proposed Circular for an analysis of the use and non-use of voluntary consensus standards in both the Notice of Proposed Rulemaking (NPRM) and the final rule in order to simplify and clarify Federal Register notices. As an alternative, these commentators proposed including such analysis in a separate document that accompanies the NPRM and the subsequent final rule.

We have decided that, rather than simplifying the rulemaking process, this change would make it more difficult for the public to comment on the rule and would complicate the process by adding another source of information in a separate location. However, we did make some minor changes to this section to clarify that agencies are not expected to provide an extensive report with each NPRM, Interim Final Rulemaking, or Final Rule. The section was also modified to improve the ability of agencies to identify voluntary consensus standards that could be used in their regulations, to ensure public

notice, and to minimize burden. First, the notice required in the NPRM may merely contain/include (1) a few sentences to identify the proposed standard, if any; and, if applicable, (2) a simple explanation of why the agency proposes to use a government-unique standard in lieu of a voluntary consensus standard. This step places the public on notice and gives them an opportunity to comment formally. Second, we expect that the majority of rulemakings will not reference standards at all. In these cases, the agency is not required to make a statement or to file a report. In those instances where an agency proposes a government-unique standard, the public, through the public comment process, will have an opportunity to identify a voluntary consensus standard (when the agency was not aware of it) or to argue that the agency should have used the voluntary consensus standard (when the agency had identified one, but rejected it).

62. Several commentators suggested adding a new section entitled ''Sufficiency of Agency Search.'' The purpose of this new section would be to limit an agency's obligation to search for existing voluntary consensus standards under the requirements of this section. We have decided that this section is unnecessary in light of the requirements elsewhere in the Circular for identifying voluntary consensus standards. Accordingly, we made no change.

63. One commentator suggested that agencies be required to fully investigate and review the intent and capabilities of a standard before making a decision to use a particular voluntary consensus standard. We have decided that the effort an agency would have to undertake to conduct its own scientific review of a voluntary, consensus standard is unnecessary, as SDOs adhere to lengthy and complex procedures which already closely scrutinize the uses and capabilities of a standard. However, in adopting a standard for use, whether in procurement or in regulation, agencies are already required to undertake the review under the Act and the Circular, as well as the review and analysis, described in other sources, such as the Federal Acquisition Regulation or the Executive Order 12866 on Regulatory Planning and Review. Accordingly, we made no change.

64. A few commentators suggested that the Circular should ensure prompt notification to interested parties when voluntary consensus standards activities are about to begin and should encourage greater public participation in such activities. Another commentator noted a lack of clear procedures on how voluntary consensus standards bodies handle public comments and whether those comments are available to interested persons or organizations. OMB has determined that these responsibilities fall within the jurisdiction of voluntary consensus standards bodies and are outside the scope of the Act and the Circular. Accordingly, we made no change.

*Proposed Section 8. Final Sections 6g and 12c*

65. A few commentators requested clarification on the use of ''commercial-off-the-shelf'' (''COTS'') products as they relate to voluntary consensus standards. In response, we have clarified final section 6g to state that this policy does not establish preferences between products developed in the private sector. Final section 12c clarified that there is no reporting requirement for such products.

*Proposed Section 9—Responsibilities. Final Sections 13, 14, 15*

66. Several commentators proposed that OMB have more defined oversight responsibility in determining whether an agency's participation in a voluntary consensus standards body is consistent with the Circular. We did not make this change. Agency Standards Executives, with the advice of the Chair of the ICSP, are responsible for ensuring that agencies are in compliance with the requirements of this Circular.

With respect to the issue of ''agency dominance'' of SDOs, we expect that SDOs will likewise ensure that members abide by their rules of conduct and participation, working closely with Standards Executives where necessary and appropriate. We inserted minor clarifying language in new sections 13, 14, and 15.

*Proposed 9b(2). Final Section 14c*

67. A commentator suggested broadening the category of agencies that must designate a standards executive, from designating those agencies with a ''significant interest'' in the use of standards, to those agencies having either ''regulatory or procurement'' responsibilities. We decided that this proposed change was vague and would only confuse the scope of the Circular. Accordingly, we made no change.

*Proposed Section 10. Final Sections 9 and 10*

68. One commentator expressed concern that the reporting requirements would require agencies to report reliance on commercial-off-the-shelf (COTS) products as a decision not to rely on voluntary consensus standards. The Act and the Circular do not limit agencies' abilities to purchase COTS or other products or services containing private sector standards. The Circular specifically excludes reporting of COTS procurements in final section 12, and final sections 9a and 12 require agencies to report only when an agency uses a government-unique standard in lieu of an existing voluntary consensus standard. Accordingly, we made no change.

*Proposed 10b —Agency Reports on Standards Policy Activities. Final Section 9b*

69. One commentator suggested that agencies also report the identity of standards development bodies whose standards the agency relies on and the identities of all the standards developed or used by such bodies. We have decided that it would be unnecessary, duplicative, and burdensome to require agencies to identify this level of detail in the annual report. The identity of individual standards developed by a standards body may be obtained either through the standards body or through a standards publishing company. In addition, agencies are already required to provide in their annual report, under section 9b(1), the number of voluntary consensus standards bodies in which an agency participates. Moreover, each agency is required under section 15b(5) to identify the standards bodies in which it is involved. Accordingly, we made no change.

*Proposed 10b(3). Final Section 9b*

70. A commentator suggested that agencies should be required to identify federal regulations and procurement specifications in which the standards were ''withdrawn'' and replaced with voluntary consensus standards. We have decided that this requirement is unnecessary, because information is already provided in the annual report described in final section 9b(3). Accordingly, we made no change.

*Proposed Section 11—Conformity Assessment. Final Section 8*

71. A commentator expressed concern that the coordination by the National Institute of Standards and Technology (NIST) of standards activities between the public and private sector will undermine the coordination that ANSI has performed for many years for the private sector.

In addition, the commentator expressed concern that NIST's involvement in such coordination will undermine the United States' ability to

compete internationally as two organizations are coordinating standards developing activities instead of one. The Act states that NIST is to ''coordinate Federal, State, and local technical standards activities and conformity assessment activities with private sector technical standards activities and conformity assessment activities.'' This language makes clear that NIST will have responsibility for coordinating only the public sector and for working with the private sector. In addition, ANSI's role is affirmed in the Memorandum Of Understanding (MOU) issued on July 24, 1995, between NIST and ANSI. The MOU states ''[t]his MOU is intended to facilitate and strengthen the influence of ANSI and the entire U.S. standards community at the international level * * * and ensure that ANSI's representation of U.S. interests is respected by the other players on the international scene.'' Thus, we made no change.

Accordingly, OMB Circular A–119 is revised as set forth below.

**Sally Katzen,**

*Administrator, Office of Information and Regulatory Affairs.*

**EXECUTIVE OFFICE OF THE PRESIDENT**

**Office of Management and Budget**

Washington, D.C. 20503

February 10, 1998.

Circular No. A–119

Revised

Memorandum for Heads of Executive Departments and Agencies

Subject: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

Revised OMB Circular A–119 establishes policies on Federal use and development of voluntary consensus standards and on conformity assessment activities. Pub. L. 104–113, the ''National Technology Transfer and Advancement Act of 1995,'' codified existing policies in A–119, established reporting requirements, and authorized the National Institute of Standards and Technology to coordinate conformity assessment activities of the agencies. OMB is issuing this revision of the Circular in order to make the terminology of the Circular consistent with the National Technology Transfer and Advancement Act of 1995, to issue guidance to the agencies on making their reports to OMB, to direct the Secretary of Commerce to issue policy guidance for conformity assessment, and to make changes for clarity.

Franklin D. Raines,

*Director.*

Attachment

**EXECUTIVE OFFICE OF THE PRESIDENT**

**Office of Management and Budget**

Washington, D.C. 20503

February 10, 1998.

Circular No. A–119

Revised

To the Heads of Executive Departments and Establishments

Subject: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

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## Background

1. What Is The Purpose Of This Circular?

This Circular establishes policies to improve the internal management of the Executive Branch. Consistent with Section 12(d) of Pub. L. 104–113, the ''National Technology Transfer and Advancement Act of 1995'' (hereinafter ''the Act''), this Circular directs agencies to use voluntary consensus standards in lieu of government-unique standards except where inconsistent with law or otherwise impractical. It also provides guidance for agencies participating in voluntary consensus standards bodies and describes procedures for satisfying

the reporting requirements in the Act. The policies in this Circular are intended to reduce to a minimum the reliance by agencies on government-unique standards. These policies do not create the bases for discrimination in agency procurement or regulatory activities among standards developed in the private sector, whether or not they are developed by voluntary consensus standards bodies. Consistent with Section 12(b) of the Act, this Circular directs the Secretary of Commerce to issue guidance to the agencies in order to coordinate conformity assessment activities. This Circular replaces OMB Circular No. A–119, dated October 20, 1993.

2. What Are The Goals Of The Government In Using Voluntary Consensus Standards?

Many voluntary consensus standards are appropriate or adaptable for the Government's purposes. The use of such standards, whenever practicable and appropriate, is intended to achieve the following goals:

a. Eliminate the cost to the Government of developing its own standards and decrease the cost of goods procured and the burden of complying with agency regulation.

b. Provide incentives and opportunities to establish standards that serve national needs.

c. Encourage long-term growth for U.S. enterprises and promote efficiency and economic competition through harmonization of standards.

d. Further the policy of reliance upon the private sector to supply Government needs for goods and services.

**Definitions of Standards**

3. What Is A Standard?

a. The term *standard,* or *technical standard* as cited in the Act, includes all of the following:

(1) Common and repeated use of rules, conditions, guidelines or characteristics for products or related processes and production methods, and related management systems practices.

(2) The definition of terms; classification of components; delineation of procedures; specification of dimensions, materials, performance, designs, or operations; measurement of quality and quantity in describing materials, processes, products, systems, services, or practices; test methods and sampling procedures; or descriptions of fit and measurements of size or strength.

b. The term *standard* does not include the following:

(1) Professional standards of personal conduct.

(2) Institutional codes of ethics.

c. *Performance standard* is a standard as defined above that states requirements in terms of required results with criteria for verifying compliance but without stating the methods for achieving required results. A performance standard may define the functional requirements for the item, operational requirements, and/or interface and interchangeability characteristics. A performance standard may be viewed in juxtaposition to a prescriptive standard which may specify design requirements, such as materials to be used, how a requirement is to be achieved, or how an item is to be fabricated or constructed.

d. *Non-government standard* is a standard as defined above that is in the form of a standardization document developed by a private sector association, organization or technical society which plans, develops, establishes or coordinates standards, specifications, handbooks, or related documents.

4. What Are Voluntary, Consensus Standards?

a. For purposes of this policy, *voluntary consensus standards* are standards developed or adopted by voluntary consensus standards bodies, both domestic and international. These standards include provisions requiring that owners of relevant intellectual property have agreed to make that intellectual property available on a non-discriminatory, royalty-free or reasonable royalty basis to all interested parties. For purposes of this Circular, ''technical standards that are developed or adopted by voluntary consensus standard bodies'' is an equivalent term.

(1) *Voluntary consensus standards bodies* are domestic or international organizations which plan, develop, establish, or coordinate voluntary consensus standards using agreed-upon procedures. For purposes of this Circular, ''voluntary, private sector, consensus standards bodies,'' as cited in Act, is an equivalent term. The Act and the Circular encourage the participation of federal representatives in these bodies to increase the likelihood that the standards they develop will meet both public and private sector needs. A voluntary consensus standards body is defined by the following attributes:

(i) Openness.

(ii) Balance of interest.

(iii) Due process.

(vi) An appeals process.

(v) Consensus, which is defined as general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties, as long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reasons why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

b. Other types of standards, which are distinct from voluntary consensus standards, are the following:

(1) ''Non-consensus standards,'' ''Industry standards,'' ''Company standards,'' or ''de facto standards,'' which are developed in the private sector but not in the full consensus process.

(2) ''Government-unique standards,'' which are developed by the government for its own uses.

(3) Standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.

**Policy**

5. Who Does This Policy Apply To?

This Circular applies to all agencies and agency employees who use standards and participate in voluntary consensus standards activities, domestic and international, except for activities carried out pursuant to treaties. ''Agency'' means any executive department, independent commission, board, bureau, office, agency, Government-owned or controlled corporation or other establishment of the Federal Government. It also includes any regulatory commission or board, except for independent regulatory commissions insofar as they are subject to separate statutory requirements regarding the use of voluntary consensus standards. It does not include the legislative or judicial branches of the Federal Government.

6. What Is The Policy For Federal Use Of Standards?

All federal agencies must use voluntary consensus standards in lieu of government-unique standards in their procurement and regulatory activities, except where inconsistent with law or otherwise impractical. In these circumstances, your agency must submit a report describing the reason(s) for its use of government-unique standards in lieu of voluntary consensus standards to the Office of Management and Budget (OMB) through the National Institute of Standards and Technology (NIST).

a. When must my agency use voluntary consensus standards?

Your agency must use voluntary consensus standards, both domestic and international, in its regulatory and procurement activities in lieu of government-unique standards, unless use of such standards would be

inconsistent with applicable law or otherwise impractical. In all cases, your agency has the discretion to decline to use existing voluntary consensus standards if your agency determines that such standards are inconsistent with applicable law or otherwise impractical.

(1) ''Use'' means incorporation of a standard in whole, in part, or by reference for procurement purposes, and the inclusion of a standard in whole, in part, or by reference in regulation(s).

(2) ''Impractical'' includes circumstances in which such use would fail to serve the agency's program needs; would be infeasible; would be inadequate, ineffectual, inefficient, or inconsistent with agency mission; or would impose more burdens, or would be less useful, than the use of another standard.

b. What must my agency do when such use is determined by my agency to be inconsistent with applicable law or otherwise impractical?

The head of your agency must transmit to the Office of Management and Budget (OMB), through the National Institute of Standards and Technology (NIST), an explanation of the reason(s) for using government-unique standards in lieu of voluntary consensus standards. For more information on reporting, see section 9.

c. How does this policy affect my agency's regulatory authorities and responsibilities?

This policy does not preempt or restrict agencies' authorities and responsibilities to make regulatory decisions authorized by statute. Such regulatory authorities and responsibilities include determining the level of acceptable risk; setting the level of protection; and balancing risk, cost, and availability of technology in establishing regulatory standards. However, to determine whether established regulatory limits or targets have been met, agencies should use voluntary consensus standards for test methods, sampling procedures, or protocols.

d. How does this policy affect my agency's procurement authority?

This policy does not preempt or restrict agencies' authorities and responsibilities to identify the capabilities that they need to obtain through procurements. Rather, this policy limits an agency's authority to pursue an identified capability through reliance on a government-unique standard when a voluntary consensus standard exists (see Section 6a).

e. What are the goals of agency use of voluntary consensus standards?

Agencies should recognize the positive contribution of standards development and related activities. When properly conducted, standards development can increase productivity and efficiency in Government and industry, expand opportunities for international trade, conserve resources, improve health and safety, and protect the environment.

f. What considerations should my agency make when it is considering using a standard?

When considering using a standard, your agency should take full account of the effect of using the standard on the economy, and of applicable federal laws and policies, including laws and regulations relating to antitrust, national security, small business, product safety, environment, metrication, technology development, and conflicts of interest. Your agency should also recognize that use of standards, if improperly conducted, can suppress free and fair competition; impede innovation and technical progress; exclude safer or less expensive products; or otherwise adversely affect trade, commerce, health, or safety. If your agency is proposing to incorporate a standard into a proposed or final rulemaking, your agency must comply with the ''Principles of Regulation'' (enumerated in Section 1(b)) and with the other analytical requirements of Executive Order 12866, ''Regulatory Planning and Review.''

g. Does this policy establish a preference between consensus and non-consensus standards that are developed in the private sector?

This policy does not establish a preference among standards developed in the private sector. Specifically, agencies that promulgate regulations referencing non-consensus standards developed in the private sector are not required to report on these actions, and agencies that procure products or services based on non-consensus standards are not required to report on such procurements. For example, this policy allows agencies to select a non-consensus standard developed in the private sector as a means of establishing testing methods in a regulation and to choose among commercial-off-the-shelf products, regardless of whether the underlying standards are developed by voluntary consensus standards bodies or not.

h. Does this policy establish a preference between domestic and international voluntary consensus standards?

This policy does not establish a preference between domestic and international voluntary consensus standards. However, in the interests of promoting trade and implementing the provisions of international treaty agreements, your agency should consider international standards in procurement and regulatory applications.

i. Should my agency give preference to performance standards?

In using voluntary consensus standards, your agency should give preference to performance standards when such standards may reasonably be used in lieu of prescriptive standards.

j. How should my agency reference voluntary consensus standards?

Your agency should reference voluntary consensus standards, along with sources of availability, in appropriate publications, regulatory orders, and related internal documents. In regulations, the reference must include the date of issuance. For all other uses, your agency must determine the most appropriate form of reference, which may exclude the date of issuance as long as users are elsewhere directed to the latest issue. If a voluntary standard is used and published in an agency document, your agency must observe and protect the rights of the copyright holder and any other similar obligations.

k. What if no voluntary consensus standard exists?

In cases where no voluntary consensus standards exist, an agency may use government-unique standards (in addition to other standards, see Section 6g) and is not required to file a report on its use of government-unique standards. As explained above (see Section 6a), an agency may use government-unique standards in lieu of voluntary consensus standards if the use of such standards would be inconsistent with applicable law or otherwise impractical; in such cases, the agency must file a report under Section 9a regarding its use of government-unique standards.

l. How may my agency identify voluntary consensus standards?

Your agency may identify voluntary consensus standards through databases of standards maintained by the National Institute of Standards and Technology (NIST), or by other organizations including voluntary consensus standards bodies, other federal agencies, or standards publishing companies.

7. What Is The Policy For Federal Participation In Voluntary Consensus Standards Bodies?

Agencies must consult with voluntary consensus standards bodies, both domestic and international, and must participate with such bodies in the development of voluntary consensus standards when consultation and participation is in the public interest

and is compatible with their missions, authorities, priorities, and budget resources.

a. What are the purposes of agency participation?

Agency representatives should participate in voluntary consensus standards activities in order to accomplish the following purposes:

(1) Eliminate the necessity for development or maintenance of separate Government-unique standards.

(2) Further such national goals and objectives as increased use of the metric system of measurement; use of environmentally sound and energy efficient materials, products, systems, services, or practices; and improvement of public health and safety.

b. What are the general principles that apply to agency support?

Agency support provided to a voluntary consensus standards activity must be limited to that which clearly furthers agency and departmental missions, authorities, priorities, and is consistent with budget resources. Agency support must not be contingent upon the outcome of the standards activity. Normally, the total amount of federal support should be no greater than that of other participants in that activity, except when it is in the direct and predominant interest of the Government to develop or revise a standard, and its timely development or revision appears unlikely in the absence of such support.

c. What forms of support may my agency provide?

The form of agency support, may include the following:

(1) Direct financial support; e.g., grants, memberships, and contracts.

(2) Administrative support; e.g., travel costs, hosting of meetings, and secretarial functions.

(3) Technical support; e.g., cooperative testing for standards evaluation and participation of agency personnel in the activities of voluntary consensus standards bodies.

(4) Joint planning with voluntary consensus standards bodies to promote the identification and development of needed standards.

(5) Participation of agency personnel.

d. Must agency participants be authorized?

Agency employees who, at Government expense, participate in standards activities of voluntary consensus standards bodies on behalf of the agency must do so as specifically authorized agency representatives. Agency support for, and participation by agency personnel in, voluntary consensus standards bodies must be in compliance with applicable laws and regulations. For example, agency support is subject to legal and budgetary authority and availability of funds. Similarly, participation by agency employees (whether or not on behalf of the agency) in the activities of voluntary consensus standards bodies is subject to the laws and regulations that apply to participation by federal employees in the activities of outside organizations. While we anticipate that participation in a committee that is developing a standard would generally not raise significant issues, participation as an officer, director, or trustee of an organization would raise more significant issues. An agency should involve its agency ethics officer, as appropriate, before authorizing support for or participation in a voluntary consensus standards body.

e. Does agency participation indicate endorsement of any decisions reached by voluntary consensus standards bodies?

Agency participation in voluntary consensus standards bodies does not necessarily connote agency agreement with, or endorsement of, decisions reached by such organizations.

f. Do agency representatives participate equally with other members?

Agency representatives serving as members of voluntary consensus standards bodies should participate actively and on an equal basis with other members, consistent with the procedures of those bodies, particularly in matters such as establishing priorities, developing procedures for preparing, reviewing, and approving standards, and developing or adopting new standards. Active participation includes full involvement in discussions and technical debates, registering of opinions and, if selected, serving as chairpersons or in other official capacities. Agency representatives may vote, in accordance with the procedures of the voluntary consensus standards body, at each stage of the standards development process unless prohibited from doing so by law or their agencies.

g. Are there any limitations on participation by agency representatives?

In order to maintain the independence of voluntary consensus standards bodies, agency representatives must refrain from involvement in the internal management of such organizations (e.g., selection of salaried officers and employees, establishment of staff salaries, and administrative policies). Agency representatives must not dominate such bodies, and in any case are bound by voluntary consensus standards bodies' rules and procedures, including those regarding domination of proceedings by any individual. Regardless, such agency employees must avoid the practice or the appearance of undue influence relating to their agency representation and activities in voluntary consensus standards bodies.

h. Are there any limits on the number of federal participants in voluntary consensus standards bodies?

The number of individual agency participants in a given voluntary standards activity should be kept to the minimum required for effective representation of the various program, technical, or other concerns of federal agencies.

i. Is there anything else agency representatives should know?

This Circular does not provide guidance concerning the internal operating procedures that may be applicable to voluntary consensus standards bodies because of their relationships to agencies under this Circular. Agencies should, however, carefully consider what laws or rules may apply in a particular instance because of these relationships. For example, these relationships may involve the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), or a provision of an authorizing statute for a particular agency.

j. What if a voluntary consensus standards body is likely to develop an acceptable, needed standard in a timely fashion?

If a voluntary consensus standards body is in the process of developing or adopting a voluntary consensus standard that would likely be lawful and practical for an agency to use, and would likely be developed or adopted on a timely basis, an agency should not be developing its own government-unique standard and instead should be participating in the activities of the voluntary consensus standards body.

8. What Is The Policy On Conformity Assessment?

Section 12(b) of the Act requires NIST to coordinate Federal, State, and local standards activities and conformity assessment activities with private sector standards activities and conformity assessment activities, with the goal of eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures. To ensure effective coordination, the Secretary of Commerce must issue guidance to the agencies.

**Management and Reporting of Standards Use**

9. What Is My Agency Required to Report?

a. As required by the Act, your agency must report to NIST, no later than December 31 of each year, the decisions by your agency in the previous fiscal year to use government-unique standards in lieu of voluntary consensus standards. If no voluntary consensus standard exists, your agency does not need to report its use of government-unique standards. (In addition, an agency is not required to report on its use of other standards. See Section 6g.) Your agency must include an explanation of the reason(s) why use of such voluntary consensus standard would be inconsistent with applicable law or otherwise impractical, as described in Sections 11b(2), 12a(3), and 12b(2) of this Circular. Your agency must report in accordance with format instructions issued by NIST.

b. Your agency must report to NIST, no later than December 31 of each year, information on the nature and extent of agency participation in the development and use of voluntary consensus standards from the previous fiscal year. Your agency must report in accordance with format instructions issued by NIST. Such reporting must include the following:

(1) The number of voluntary consensus standards bodies in which there is agency participation, as well as the number of agency employees participating.

(2) The number of voluntary consensus standards the agency has used since the last report, based on the procedures set forth in sections 11 and 12 of this Circular.

(3) Identification of voluntary consensus standards that have been substituted for government-unique standards as a result of an agency review under section 15b(7) of this Circular.

(4) An evaluation of the effectiveness of this policy and recommendations for any changes.

c. No later than the following January 31, NIST must transmit to OMB a summary report of the information received.

10. How Does My Agency Manage And Report Its Development and Use Of Standards?

Your agency must establish a process to identify, manage, and review your agency's development and use of standards. At minimum, your agency must have the ability to (1) report to OMB through NIST on the agency's use of government-unique standards in lieu of voluntary consensus standards, along with an explanation of the reasons for such non-usage, as described in section 9a, and (2) report on your agency's participation in the development and use of voluntary consensus standards, as described in section 9b. This policy establishes two ways, category based reporting and transaction based reporting, for agencies to manage and report their use of standards. Your agency must report all uses of standards in one or both ways.

11. What Are The Procedures For Reporting My Agency's Use Of Standards In Regulations?

Your agency should use transaction based reporting if your agency issues regulations that use or reference standards. If your agency is issuing or revising a regulation that contains a standard, your agency must follow these procedures:

a. Publish a request for comment within the preamble of a Notice of Proposed Rulemaking (NPRM) or Interim Final Rule (IFR). Such request must provide the appropriate information, as follows:

(1) When your agency is proposing to use a voluntary consensus standard, provide a statement which identifies such standard.

(2) When your agency is proposing to use a government-unique standard in lieu of a voluntary consensus standard, provide a statement which identifies such standards and provides a preliminary explanation for the proposed use of a government-unique standard in lieu of a voluntary consensus standard.

(3) When your agency is proposing to use a government-unique standard, and no voluntary consensus standard has been identified, a statement to that effect and an invitation to identify any such standard and to explain why such standard should be used.

b. Publish a discussion in the preamble of a Final Rulemaking that restates the statement in the NPRM or IFR, acknowledges and summarizes any comments received and responds to them, and explains the agency's final decision. This discussion must provide the appropriate information, as follows:

(1) When a voluntary consensus standard is being used, provide a statement that identifies such standard and any alternative voluntary consensus standards which have been identified.

(2) When a government-unique standard is being used in lieu of a voluntary consensus standard, provide a statement that identifies the standards and explains why using the voluntary consensus standard would be inconsistent with applicable law or otherwise impractical. Such explanation must be transmitted in accordance with the requirements of Section 9a.

(3) When a government-unique standard is being used, and no voluntary consensus standard has been identified, provide a statement to that effect.

12. What Are The Procedures For Reporting My Agency's Use Of Standards In Procurements?

To identify, manage, and review the standards used in your agency's procurements, your agency must either report on a categorical basis or on a transaction basis.

a. How does my agency report the use of standards in procurements on a categorical basis?

Your agency must report on a category basis when your agency identifies, manages, and reviews the use of standards by group or category. Category based reporting is especially useful when your agency either conducts large procurements or large numbers of procurements using government-unique standards, or is involved in long-term procurement contracts which require replacement parts based on government-unique standards. To report use of government-unique standards on a categorical basis, your agency must:

(1) Maintain a centralized standards management system that identifies how your agency uses both government-unique and voluntary consensus standards.

(2) Systematically review your agency's use of government-unique standards for conversion to voluntary consensus standards.

(3) Maintain records on the groups or categories in which your agency uses government-unique standards in lieu of voluntary consensus standards, including an explanation of the reasons for such use, which must be transmitted according to Section 9a.

(4) Enable potential offerors to suggest voluntary consensus standards that can replace government-unique standards.

b. How does my agency report the use of standards in procurements on a transaction basis?

Your agency should report on a transaction basis when your agency identifies, manages, and reviews the use of standards on a transaction basis rather than a category basis. Transaction based reporting is especially useful when your agency conducts procurement mostly through commercial products and services, but is occasionally involved in a procurement involving government-unique standards. To report use of government-unique standards on a transaction basis, your agency must follow the following procedures:

(1) In each solicitation which references government-unique standards, the solicitation must:

(i) Identify such standards.

(ii) Provide potential offerors an opportunity to suggest alternative voluntary consensus standards that meet the agency's requirements.

(2) If such suggestions are made and the agency decides to use government-unique standards in lieu of voluntary consensus standards, the agency must explain in its report to OMB as described in Section 9a why using such voluntary consensus standards is inconsistent with applicable law or otherwise impractical.

c. For those solicitations that are for commercial-off-the-shelf products (COTS), or for products or services that rely on voluntary consensus standards or non-consensus standards developed in the private sector, or for products that otherwise do not rely on government-unique standards, the requirements in this section do not apply.

**Agency Responsibilities**

13. What Are The Responsibilities Of The Secretary Of Commerce?

The Secretary of Commerce:

a. Coordinates and fosters executive branch implementation of this Circular and, as appropriate, provides administrative guidance to assist agencies in implementing this Circular including guidance on identifying voluntary consensus standards bodies and voluntary consensus standards.

b. Sponsors and supports the Interagency Committee on Standards Policy (ICSP), chaired by the National Institute of Standards and Technology, which considers agency views and advises the Secretary and agency heads on the Circular.

c. Reports to the Director of OMB concerning the implementation of the policy provisions of this Circular.

d. Establishes procedures for agencies to use when developing directories described in Section 15b(5) and establish procedures to make these directories available to the public.

e. Issues guidance to the agencies to improve coordination on conformity assessment in accordance with section 8.

14. What Are The Responsibilities Of The Heads Of Agencies?

The Heads of Agencies:

a. Implement the policies of this Circular in accordance with procedures described.

b. Ensure agency compliance with the policies of the Circular.

c. In the case of an agency with significant interest in the use of standards, designate a senior level official as the Standards Executive who will be responsible for the agency's implementation of this Circular and who will represent the agency on the ICSP.

d. Transmit the annual report prepared by the Agency Standards Executive as described in Sections 9 and 15b(6).

15. What Are The Responsibilities Of Agency Standards Executives?

An Agency Standards Executive:

a. Promotes the following goals:

(1) Effective use of agency resources and participation.

(2) The development of agency positions that are in the public interest and that do not conflict with each other.

(3) The development of agency positions that are consistent with administration policy.

(4) The development of agency technical and policy positions that are clearly defined and known in advance to all federal participants on a given committee.

b. Coordinates his or her agency's participation in voluntary consensus standards bodies by:

(1) Establishing procedures to ensure that agency representatives who participate in voluntary consensus standards bodies will, to the extent possible, ascertain the views of the agency on matters of paramount interest and will, at a minimum, express views that are not inconsistent or in conflict with established agency views.

(2) To the extent possible, ensuring that the agency's participation in voluntary consensus standards bodies is consistent with agency missions, authorities, priorities, and budget resources.

(3) Ensuring, when two or more agencies participate in a given voluntary consensus standards activity, that they coordinate their views on matters of paramount importance so as to present, whenever feasible, a single, unified position and, where not feasible, a mutual recognition of differences.

(4) Cooperating with the Secretary in carrying out his or her responsibilities under this Circular.

(5) Consulting with the Secretary, as necessary, in the development and issuance of internal agency procedures and guidance implementing this Circular, including the development and implementation of an agency-wide directory identifying agency employees participating in voluntary consensus standards bodies and the identification of voluntary consensus standards bodies.

(6) Preparing, as described in Section 9, a report on uses of government-unique standards in lieu of voluntary consensus standards and a report on the status of agency standards policy activities.

(7) Establishing a process for ongoing review of the agency's use of standards for purposes of updating such use.

(8) Coordinating with appropriate agency offices (e.g., budget and legal offices) to ensure that effective processes exist for the review of proposed agency support for, and participation in, voluntary consensus standards bodies, so that agency support and participation will comply with applicable laws and regulations.

**Supplementary Information**

16. When Will This Circular Be Reviewed?

This Circular will be reviewed for effectiveness by the OMB three years from the date of issuance.

17. What Is The Legal Effect Of This Circular?

Authority for this Circular is based on 31 U.S.C. 1111, which gives OMB broad authority to establish policies for the improved management of the Executive Branch. This Circular is intended to implement Section 12(d) of Public Law 104–113 and to establish policies that will improve the internal management of the Executive Branch. This Circular is not intended to create delay in the administrative process, provide new grounds for judicial review, or create new rights or benefits, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, or its officers or employees.

18. Do You Have Further Questions?

For information concerning this Circular, contact the Office of Management and Budget, Office of Information and Regulatory Affairs: Telephone 202/395–3785.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Drug use and alcohol misuse control in natural gas, liquefied natural gas, and hazardous pipeline operations; comments due by 2-23-98; published 12-24-97

Metric equivalents; comments due by 2-27-98; published 12-29-97

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Procedure and administration:

Adoption taxpayer identification numbers (ATIN); use by individuals in process of adopting children; cross reference; comments due by 2-23-98; published 11-24-97

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**H.R. 1271/P.L. 105–155**

FAA Research, Engineering, and Development Authorization Act of 1998 (Feb. 11, 1998; 112 Stat. 5)

**H.R. 3042/P.L. 105–156**

Environmental Policy and Conflict Resolution Act of 1998 (Feb. 11, 1998; 112 Stat. 8)

**S. 1349/P.L. 105–157**

To authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA, and for other purposes. (Feb. 11, 1998; 112 Stat. 13)

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**S. 1564/P.L. 105–158**

Holocaust Victims Redress Act (Feb. 13, 1998; 112 Stat. 15)

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